



**LOCALLY OPERATED  
TRANSIT SYSTEM (LOTS)**  
5310 Program Manual



**December 2022**

**Maryland Transit Administration**  
**Office of Local Transit Support**  
6 St. Paul Street  
Baltimore, MD 21202-1614

# **LOCALLY OPERATED TRANSIT SYSTEM (LOTS)**

## **5310 Program Manual**

**December 2022**

**Maryland Transit Administration  
Office of Local Transit Support  
6 St. Paul Street  
Baltimore, MD 21202-1614**

# Table of Contents

## Chapter 1 - Introduction

Purpose and Use of This Manual

1-1

Key Reference Documents

1-3

Additional Resources

1-5

Compliance Oversight

1-6

For More Information

1-7

Summary of Program Requirements

1-8

*Attachment 1.A - Summary of Requirements for Section 5310 Subrecipients*

## Chapter 2 - Planning, Applying for Funding, and Public Notice Requirements

Coordinated Planning Requirements

2-1

Eligible Applicants for Funding

2-3

Planning Requirements for the Application Process

2-4

Summary

2-5

*Attachment 2.A - Sample Tax Exempt Status Letter from IRS*

*Attachment 2.B - Sample Public Notice Format*

*Attachment 2.C - Sample Letter of Notification*

## Chapter 3 - Civil Rights/Nondiscrimination

Introduction	
3-1	
Title VI - Non-Discrimination in Programs and Activities	
3-2	
Americans with Disabilities Act (ADA) / Section 504	
3-8	
Equal Employment Opportunity (EEO)	
3-13	
DBE - Non-Discrimination in Contracting Practices	
3-15	
Summary	
3-16	

*Attachment 3.A - Title VI Implementation Plan Template*

*Attachment 3.B - ADA Policy Template*

*Attachment 3.C - EEO Policy and Procedures Template*

## Chapter 4 - Purchasing, Procurement & Contracting

Introduction	
4-1	
Procurement Responsibility	
4-2	
MTA Concurrence	
4-3	
Ethics / Written Standards of Conduct	
4-3	
Contract Administration System	
4-3	
Awards to Responsible Contractors	
4-4	
Written Record of Procurement History	
4-5	
Written Protest Procedures	
4-5	
Independent Cost Estimate	
4-6	
Cost or Price Analysis for Every Procurement Action	
4-6	
eMaryland Marketplace	
4-7	
Intergovernmental Procurement Agreements	
4-7	

Small Procurements

4-8

Third-Party Contract Responsibilities Regarding Compliance with  
Federal and State Requirements

4-9

Summary

4-10

*Attachment 4.A – Code of Ethics Template*

*Attachment 4.B – Procurement/Purchasing Policies Template*

*Attachment 4.C – Protest Process Template*

*Attachment 4.D – ICE Form Template*

*Attachment 4.E – FTA Checklist of Provisions*

*Attachment 4.F – FTA Model Contract Clauses*

## Chapter 5 - Financial Management and Accounting

Introduction

5-1

Local Match

5-2

Eligible Expenses

5-4

Cost Allocation Plan

5-6

The Reimbursement Process

5-6

Reporting/Program Measures

5-7

Recordkeeping

5-11

Audit

5-11

Project Close-Out

5-12

Summary

5-13

*Attachment 5.A - Request for Payment - Capital*

*Attachment 5.B - Request for Payment - Operating*

*Attachment 5.C - Financial Report (Operating Payment Request Backup Sheet)*

*Attachment 5.D - Quarterly Reporting Form*

*Attachment 5.E - Grant Close-Out Final Operating Budget Statement and Letter*  
*Attachment 5.F - Grant Close-Out Letter - Capital*

## Chapter 6 - Vehicles and Other Equipment

Introduction

6-1

Procurement

6-2

Use of Grant-Funded Equipment

6-2

Inventory Records

6-3

Maintenance

6-4

Minimum Vehicle Useful-Life Policy and Lien Release

6-7

Disposition

6-10

Insurance Requirements

6-11

Vehicle Accident Procedures & Reporting Requirements

6-12

Federal and State Requirements Related to Commercial Vehicles

6-14

Summary

6-18

*Attachment 6.A – Vehicle Inventory Template*

*Attachment 6.B – Vehicle Maintenance Program Template*

*Attachment 6.C – Pre- and Post-Trip Vehicle Inspection Form*

*Attachment 6.D – Sample Letter of Intent to Dispose of a Vehicle  
and Request the Lien Release*

*Attachment 6.E – Equipment Disposition Policy Template*

*Attachment 6.F – Non-Fare Revenue Quarterly Reporting Form  
(Vehicle/Equipment Proceeds Form)*

## Chapter 7 - Transportation Service Operations

Introduction

7-1

Coordinated Operations	
7-2	
Charter Service Restrictions	
7-2	
School Bus Restrictions	
7-3	
Monitoring Purchased Transportation Contracts for Compliance and Quality	
7-4	
Summary	
7-6	

## Chapter 8 – Safety and Training

Introduction	
8-1	
FMCSA and Maryland Motor Carrier Requirements	
8-1	
Driver Qualifications required under FMCSA	
8-2	
Training	
8-5	
Drug-Free Workplace	
8-7	
Drug and Alcohol Program Requirements	
8-9	
Other Policies for Safe Operations	
8-10	
Security	
8-13	
Emergency Preparedness	
8-14	
Summary	
8-15	

*Attachment 8.A – Selected FMCSA and Maryland Motor Carrier Requirements  
that May Apply to Your Organization*

*Attachment 8.B – Drug-Free Workplace Policy Template*

*Attachment 8.C – Cell Phone Policy Template*

*Attachment 8.D – Accident/Incident Procedure Template and Reporting Form*  
*Attachment 8.E – Client Pick-up and Discharge Procedures Template*

## Chapter 9 – ITS Projects and Mobility Management

Introduction

9-1

Requirements Pertaining to ITS Projects

9-1

Examples of Mobility Management Activities

9-4

Mobility Management Technical Assistance Resources

9-5

Summary

9-7

*Attachment 9.A – Maryland ITS Architecture Conformity Form*

## Chapter 10 – Other Requirements

Introduction

10-1

Labor Protections

10-1

Lobbying Restrictions

10-1

Debarment/Suspension

10-2

Summary

10-2

*Attachment 10.A - Certification of Restrictions on Lobbying Form*

*Appendix 4.A – Additional Procurement Guidance*

*Appendix 5.A – In-Kind Local Match*

*Appendix 5.B – Guidance for Developing a Cost Allocation Plan*



*Appendix 6.A – Use of Prior JARC & New Freedom Vehicles*

*Appendix 7.A – Supplemental Information on Coordination*

*Appendix 7.B – Supplemental Information on Charter Service Restrictions*

*Appendix 7.C – Supplemental Information about School Bus Restrictions*

*Appendix 9.A – Systems Engineering Analysis Process Prescribed in the FTA ITS  
Architecture Policy*

*Appendix 10.A – Construction Employee Protections*

*Appendix 10.B – Transit Employee Protective Arrangements*

# Chapter 1 - Introduction

## PURPOSE OF THE 5310 MANUAL

This 5310 Program Manual was developed to provide comprehensive guidance on Federal and State rules and regulations pertaining to the Federal Transit Administration (FTA) Enhanced Mobility of Seniors and Individuals with Disabilities Program (Section 5310) that is administered through the Maryland Department of Transportation Maryland Transit Administration (MDOT MTA) Office of Local Transit Support (OLTS). The goal of the Section 5310 program is to improve mobility for seniors and individuals with disabilities by removing barriers to transportation services and expanding the transportation mobility options available. The Maryland Section 5310 program provides grant funds for capital and operating expenses to recipients for public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable, as well as for alternatives to public transportation projects that assist seniors and individuals with disabilities with transportation.

## Authority for the Program

The Section 5310 program is authorized under the provisions set forth in the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), which was enacted on July 6, 2012, and reauthorized under the Fixing America's Surface Transportation (FAST) Act, which was signed into law on Dec. 4, 2015, and effective FY2016 through FY2020 provides guidance on the administration of the 5310 (Elderly Individuals and Individuals with Disabilities) Program and is incorporated here within.

Congress established the funding for FTA programs through authorizing legislation that amends Chapter 53 of Title 49 of the U.S. Code. On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the "Bipartisan Infrastructure Law") into law. The legislation reauthorizes surface transportation programs for FY 2022-2026 and provides advance appropriations for certain programs. The Bipartisan Infrastructure Law authorizes up to \$108 billion to support federal public transportation programs, including \$91 billion in guaranteed funding.

In addition to the authorization of surface transportation programs, Congress also authorized additional support for transit agencies during the COVID-19 public emergency:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provides \$25 billion to transit agencies to help to prevent, prepare for and respond to the COVID-19 pandemic.

On December 27, 2020, the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA), which includes \$900 billion in supplemental appropriations for COVID-19 relief, \$14 billion of which will be allocated to support the transit industry during the COVID-19 public health emergency.

The American Rescue Plan Act of 2021 (ARP), which President Biden signed on March 11, 2021, includes \$30.5 billion in federal funding to support the nation's public transportation systems as they continue to respond to the COVID-19 pandemic and support the President's call to vaccinate the U.S. population. These provisions authorize the U.S. Secretary of Transportation to apportion funds to each State for grants under this program.

In Maryland, the MDOT MTA of the Maryland Department of Transportation has been designated by the Governor to receive these funds and administer the program in accordance with State and Federal laws, statutes, and regulations.<sup>1</sup>

The MDOT MTA is the direct recipient for these funds, and in turn provides grants under these programs to local organizations, referred to by the FTA as "**subrecipients.**" MDOT MTA is responsible for informing the subrecipients of their obligations under the FTA programs, as well as for oversight of the subrecipients' compliance with the requirements.

The MDOT MTA also administers the previously awarded Section 5310, Job Access and Reverse Commute (JARC) and New Freedom funds allocated to Maryland, except for the JARC and New Freedom funds in the Washington, DC-VA-MD Urbanized Area (these funds are administered by the Metropolitan Washington Council of Governments). With the passage of MAP-21, the JARC and New Freedom programs were consolidated into the Section 5310 program and other FTA programs. Old "legacy" JARC/New Freedom funds will be funded under the new, MAP-21 Section 5310 program as warranted.

## Who Should Use this Manual

This manual is geared for those subrecipients of Section 5310 funds in Maryland who do *not* also receive other FTA funding through MDOT MTA. In most cases these subrecipients will be affiliated with human service programs rather than public transit programs.

---

<sup>1</sup> The Washington Metropolitan Council of Governments (MWCOC) is the designated recipient of funding for the Washington Urbanized Area, which, within Maryland, includes Montgomery and Prince George's Counties.

Those subrecipients that *do* also receive FTA funding under the Sections 5307, 5309, and/or 5311 programs (public transit funding programs) are known in Maryland as the Locally Operated Transit Systems (LOTS) and are subject to more extensive requirements which are addressed in MDOT MTA's *Locally Operated Transit System (LOTS) Manual*.

## How to Use this Manual

If your organization has been awarded funds from the MDOT MTA under Section 5310, you are expected to:

- Become familiar with its contents. You don't need to remember all the requirements, but you do need to know that a requirement exists for a particular topic and where to find it in the manual;
- Follow the requirements outlined for each FTA/MDOT MTA requirement applicable to the type of funding you get. Some Federal requirements apply across the board, while others are purpose specific. See Attachment 1.A to this chapter to see which requirements are most likely to apply.
- Use the templates provided to prepare required Federal plans or programs;
- Refer to the additional resources cited where the Federal requirements are more in-depth than can be covered in this manual;
- Use the manual to answer questions you may have about a specific topic (an index is provided for this purpose); and
- Share relevant plans/programs with other members of your organization as well as any contractors who are required to follow specific requirements.

If you are unable to find the answer to a question related to MDOT MTA/FTA requirements within this manual, contact your 5310 Program Manager.

## KEY REFERENCE DOCUMENTS

In addition to this manual, subrecipients should refer to the following documents for program information and guidance.

### State Management Plan

The *Maryland State Management Plan for Section 5310 (Enhanced Mobility of Seniors and Individuals with Disabilities), Section 5316 (Job Access and Reverse Commute), and Section 5317 (New Freedom) Programs* documents the State's policies for managing these three programs. The State Management Plan was updated in 2022.

## Grant Application Packages

Application requirements are described in the current Fiscal Year edition of the Section 5310 Program application that is developed and updated on a biennial basis. Forms and instructions for completing the forms to apply can be found within each application.

MDOT MTA sends a letter announcing the availability of funding to an extensive statewide mailing list. A public notice is also published through press releases and on applicable websites announcing the availability of funding to the general public and any public or private agency interested in the program. The application packages are transmitted to Section 5310 applicants in the fall of each application cycle.

Many of the Federal and State requirements are listed within the certifications and assurances that must be signed and submitted with the Section 5310 application. These signed certifications and assurances become part of the grant agreement if awarded. The certifications and assurances are updated each grant cycle to reflect the FTA's Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements, published in the *Federal Register* early in each Federal Fiscal Year. In signing these, your organization is agreeing to meet these requirements (and is legally bound to do so) for the entire life of the grant/vehicle useful life. This manual provides information on what your organization needs to do in order to comply with many of these requirements.

## Your Grant Agreement with MDOT MTA

The grant agreement is the legal document which lists the requirements which your organization is subject to as a result of receiving the grant funding. The grant agreement is a contract between MDOT MTA and your agency. It is issued after notification of a grant award. The terms *you*, *your agency*, and *human service agency* are used interchangeably throughout this manual, and when used, specifically refer to each Section 5310 subrecipient that has a 5310 grant agreement with the MDOT MTA.

## FTA Circulars

The FTA publishes a circular on each of its grant programs. The following circular pertains to the Section 5310 program:

- C 9070.1G - Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions (2014)

The following circulars pertain to the legacy JARC and New Freedom programs:

- C 9045.1 - New Freedom Program Guidance and Application Instructions (2007)

- C 9050.1 - The Job Access and Reverse Commute (JARC) Program Guidance and Application Instructions (2007)

In addition, the following FTA circulars address requirements common to all FTA grants:

- C 4220.1F - Third Party Contracting Guidance (2013) - details procurement requirements (summarized in Chapter 4 of this manual).
- C 4702.1B - Title VI Requirements and Guidelines for Federal Transit Administration Recipients (2012) - details requirements related to non-discrimination in service based on race and national origin (summarized in Chapter 3 of this manual).
- C 4704.1 - Equal Employment Opportunity Program Guidelines for Grant Recipients (1988) - details requirements related to non-discrimination in employment (summarized in Chapter 3 of this manual).
- C 4710.1 - Americans with Disabilities Act (ADA): Guidance (2015) - details requirements related to complying with the ADA as well as Section 504 of the Rehabilitation Act of 1973 (summarized in Chapter 3 of this manual).
- C 5010.1D - Grant Management Requirements (2012) - details requirements related to financial management and recordkeeping.

FTA Circulars can be downloaded from the FTA website, currently starting at the following page:

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/fta-circulars>

### **The Super Circular (2 CFR Part 200)**

In addition to FTA circulars, all FTA grants are subject to the requirements of 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2014), commonly referred to as the "Super Circular." Issued by the Office of Management and Budget (OMB), the Super Circular, contains overarching Federal requirements pertaining to financial accounting, audits, and other grants administration activities.

The Super Circular can be found in the Electronic Code of Federal Regulations at this web page:

[http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

## ADDITIONAL RESOURCES

Section 5310 subrecipients can find helpful information, including best practices and technical assistance on many topics related to human service transportation, through these organizations, websites, and publications:

- The **Transportation Association of Maryland (TAM)** hosts an annual conference; an annual “roadeo” for drivers, training, and other events for transit and community transportation providers; and facilitates peer-to-peer assistance through online discussions. Their contact information is: website: [www.taminc.org](http://www.taminc.org), phone: 410-553-4245, toll free: 1-866-TAM-0700.
- *Maryland Transit Update*, a joint newsletter of MDOT MTA’s Maryland Rural Transit Assistance Program (RTAP) and TAM, is published quarterly in electronic format. To subscribe, contact TAM or send an email request to [bhamby@kfhgroup.com](mailto:bhamby@kfhgroup.com).
- The **Community Transportation Association of America (CTAA)** is a national organization that provides a wide array of technical assistance for community transportation providers. Assistance includes training, extensive resources on their website ([www.ctaa.org](http://www.ctaa.org)), and an annual conference. CTAA also manages several Federally-funded resource centers, including the National Center for Mobility Management.
- The **National Aging and Disability Transportation Center (NADTC)** is an FTA-funded technical assistance program working to increase access to transportation for older adults and individuals with disabilities. Many of the resources offered by the NADTC were developed under the former Project ACTION program and the former National Center on Senior Transportation. Website: <http://www.nadtc.org/>.
- The **National Center for Mobility Management (NCMM)** is an FTA-funded initiative of the United We Ride program. Website: <http://www.nc4mm.org/>.
- The **National Rural Transit Assistance Program (RTAP)** is an FTA-funded technical assistance program focused on rural transit services. Website: <http://nationalrtap.org/>

Topic-specific additional resources are also indicated throughout the manual.

## COMPLIANCE OVERSIGHT

The MDOT MTA monitors subrecipients’ compliance with FTA and MDOT MTA requirements through several approaches, including:

- Comprehensive compliance reviews are periodically conducted by the MDOT MTA or the MDOT MTA's consultant on all FTA 5310 subrecipients. These reviews involve a desk review of required documentation as well as an on-site review conducted at least once over the useful life of the Federal asset.
- Other compliance reviews are periodically conducted by the MDOT MTA or the MDOT MTA's consultant that focus on specific compliance areas such as Title VI, procurement, etc.
- MDOT MTA staff will conduct periodic site visits of all subrecipients, and may perform spot-checks of compliance with Federal and State requirements, condition of vehicles, etc.
- Quarterly reports that each subrecipient submits to MDOT MTA during the life of the grant or useful life of the equipment.
- Periodic training in any one of the applicable Federal requirements. Attendance is mandatory

MDOT MTA compliance reviews and site visits are an opportunity to receive technical assistance in how to meet Federal and State requirements. MDOT MTA wants all subrecipients to be successful in their projects and to continue to be eligible for funding.

## **FOR MORE INFORMATION**

Questions regarding the Section 5310 program should be addressed to:

Maryland Transit Administration  
Office of Local Transit Support  
6 St. Paul Street, 8<sup>th</sup> floor  
Baltimore, MD 21202

Phone: 410-767-3790 (or your designated 5310 Program Manager)  
Fax: 410-333-0901



## **SUMMARY OF PROGRAM REQUIREMENTS:**

At the end of each chapter, you will find a summary of the Section 5310 Program requirements that you as a subrecipient of Federal Section 5310 funds must comply with. When cited at the end of each chapter, each subrecipient will be required to provide the required form, policy, plan/ program or information. Some of this material will be project specific (such as vehicles) so carefully read each requirement at the end of each chapter to determine applicability. Where a requirement is specified, you will also find a sample or template attached to the end of each chapter which you may use to satisfy the requirement.

# Chapter 2 - Planning, Applying for Funding, and Public Notice Requirements

## COORDINATED PLANNING REQUIREMENTS

To be eligible for Section 5310 funding, the Federal program requires that projects funded through the Section 5310 Program be “included in a locally developed, coordinated public transit-human services transportation plan” that was “developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, and nonprofit transportation and human services providers; and other members of the public.”

FTA guidance defines a coordinated public transit-human service transportation plan as one that identifies the transportation needs of individuals with disabilities, seniors, and people with low incomes, provides strategies for meeting those needs, and prioritizes transportation services for funding and implementation. Required elements of the plan are:

- An assessment of available services that identifies current transportation providers (public, private, and nonprofit);
- An assessment of transportation needs for individuals with disabilities and seniors. This assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts, and gaps in service;
- Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and
- Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

Detailed guidance from FTA on the coordinated planning requirements for the Section 5310 Program can be found on pages V-1 through V-10 in the most recent Section 5310 Program Circular (FTA C 9070.1G, issued 2014). This circular can be found on the FTA website at:

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/enhanced-mobility-seniors-and-individuals-disabilities>

## Regional Coordination Plans

In Maryland, preparing and updating locally developed, coordinated public transit-human services transportation plans are the responsibility of five regional coordinating planning organizations.

In each region, a regional coordinating body was established to lead the coordination efforts between transit operators and human service transportation providers in the region. Each region has also established a Regional Coordinated Planning Committee to provide an ongoing forum to discuss any local transportation needs, especially those of older adults, individuals with disabilities, and people with lower incomes.

Each of the six regions has developed a Coordinated Public Transit-Human Services Transportation Plan that 1) identified the transportation needs of individuals with disabilities, elderly individuals and individuals with low incomes, 2) provided strategies for meeting those local needs, and 3) identified potential projects that correspond to each strategy.

The most recent updates to these Maryland regional plans are available via the project website: <http://www.kfhgroup.com/marylandcoordinationplans/>.

The regional coordinating bodies are facilitated by the following organizations:

- Baltimore Region (Baltimore City and Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties): Baltimore Metropolitan Council (BMC)
- Lower Eastern Shore (Somerset, Wicomico, and Worcester Counties): Tri-County Council for the Lower Eastern Shore of Maryland
- Southern Maryland (Calvert, Charles, and St. Mary's Counties): Tri-County Council for Southern Maryland (TCCSMD)
- Upper Eastern Shore (Caroline, Cecil, Dorchester, Kent, Queen Anne's, and Talbot Counties): Maryland Upper Shore Transit (MUST)
- Western Maryland (Allegany, Frederick, Garrett, and Washington Counties): Tri-County Council for Western Maryland (TCCWMD)

## Participation in the Regional Coordinated Planning Process

Each coordination plan is periodically updated. Human service transportation agencies and government entities that would like to have their needs incorporated and potential projects considered for future funding are advised to participate in the planning process of the region(s) they serve. This is important to ensure that their needs and potential

projects are included in future updates of their regional plan since inclusion in the plan is a requirement for funding under the Section 5310 program.

## **ELIGIBLE APPLICANTS FOR FUNDING**

### **Designated Recipient for FTA Funding**

Under the FTA Section 5310 program, MDOT MTA is the federally “designated recipient” for these funds in Maryland outside of the Washington Urbanized Area (which includes urbanized areas of Montgomery, and Prince George’s). For these urbanized areas, the Metropolitan Washington Council of Governments (MWCOG) is the designated recipient. MWCOG in turn partners with MDOT MTA to award and administer funding within Maryland

The designated recipient is responsible for determining distribution of funds in their respective coverage area (to eligible subrecipients, described in the next section) and is the direct recipient to FTA.

*Legacy programs: Prior to the passage of MAP-21, MDOT MTA was also the designated recipient for the JARC and New Freedom programs for all areas of the State except the urbanized areas of Montgomery and Prince George’s Counties. As such, MDOT MTA continues to administer the remaining funds in these legacy programs.*

As the designated recipient, the MDOT MTA submits the statewide application to the FTA, while local entities submit their applications to the MDOT MTA.

### **Eligible Subrecipients**

From the perspective of the FTA, the organizations which receive FTA funding under grants from the MDOT MTA are considered “subrecipients.”

Private non-profit organizations are the only eligible subrecipients for Section 5310 program funding awarded by MDOT MTA. A corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. 501(c) which is exempt from taxation under 26 U.S.C. 501(a) or one which has been determined under State law to be nonprofit and for which the designated State agency has received documentation certifying the status of the nonprofit organization.

To document their non-profit status, applicants for Section 5310 funds are required to submit with their grant application either a copy of the Articles of Incorporation filed with the Maryland Department of Assessments and Taxation, or a copy of the determination from the U.S. Internal Revenue Service documenting their organization's

private, non-profit status. A sample letter of determination/article of incorporation is provided as Attachment 2.A.

*Legacy programs: There were three categories of eligible subrecipients of the remaining JARC and New Freedom program funds: private non-profit organizations, State or local governmental bodies, and public operators of public transportation services. MAP-21-era funding continues to be available to State or local governmental bodies and public operators of public transportation services through the FTA Section 5307 (urbanized) and 5311 (rural) public transportation programs in Maryland.*

## **PLANNING REQUIREMENTS FOR THE APPLICATION PROCESS**

There are several planning requirements that are specific to the application for grant funding under the Maryland Section 5310 program. These are briefly summarized below. For more information on any of these requirements, including specific deadlines for each, refer to the most recent grant application package.

### **Regional Coordinating Body Endorsement**

As part of the grant application process for Section 5310 funding in Maryland, the application must be reviewed by the regional coordinating body in the region which the service is intended to serve and endorsed for consistency with the regional coordination plan before it is submitted to the MDOT MTA.

### **Public and Transportation Operator Notice Requirements**

Prior to submission of a Section 5310 application to the MDOT MTA, the applicant must provide formal notice to the general public as well as to operator transportation providers in the region, and address comments received as a result of these notifications.

#### ***Public Notice***

Each applicant must publish a public notice in a local area-wide newspaper briefly describing the transportation services the applicant organization is proposing to provide with the vehicle or equipment for which it is applying in the application. Members of the public must be given an opportunity to submit comments on the proposed project to the applicant, and the applicant must respond to any comments received. A sample Public Notice is provided as Attachment 2.B.

## ***Written Notification to Transportation Providers***

To ensure that the Section 5310 program does not fund projects that will duplicate or compete with existing services, all transportation providers in the proposed service area of the Section 5310 grant application must be notified in writing, by postal mail, of the intended submittal. Transportation operators to be notified include public transit operators, private transit and paratransit operators such as charter bus and taxi operators, social service operators, particularly those funded previously under the Section 5310 or other Federal programs, and specialized transit operators funded by the Maryland Statewide Special Transportation Assistance Program (SSTAP). All providers in the proposed service area must be informed of the proposed project so they can submit comments to the applicant, and the applicant must respond to any comments received. A sample Notice to Transportation Operators is provided as Attachment 2.C.

### **SUMMARY**

Under Chapter 2 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or notices:

- Articles of Incorporation or Letter of Determination documenting your non-profit status as part of your grant application. A sample IRS Letter of Determination is provided as Attachment 2.A.
- A Public Notice announcing your transportation projects as part of your grant application. A sample Public Notice is provided as Attachment 2.B.
- A Notice to Transportation Providers in your service area as part of your grant application. A sample Notice to Transportation Providers is provided as Attachment 2.C.

# Chapter 3 - Civil Rights/Nondiscrimination

## INTRODUCTION

Federal civil rights laws protect persons from discrimination under Federal transit programs in a variety of ways. This section summarizes the non-discrimination requirements that are relevant for subrecipients of Section 5310 funding.

Federal civil rights laws pertaining to grantees include, but are not limited to:

- The Civil Rights Act of 1964, as amended, is the overriding basis for nondiscrimination on the basis of race, color, religion, sex, or national origin.
  - **Title VI** of the Civil Rights Act protects people from discrimination based on race, color, and national origin in **programs and activities** receiving Federal financial assistance. Title VI is one of the bases for numerous FTA requirements such as Environmental Justice, Disadvantaged Business Enterprise, and Equal Employment Opportunity requirements.
  - **Title VII** of the Civil Rights Act makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex in **employment**. Title VII together with Title VI is the basis for FTA Equal Employment Opportunity requirements.
- The Americans with Disabilities Act (ADA) of 1990 as amended, prohibits discrimination against individuals with disabilities, as does Section 504 of the Rehabilitation Act of 1973.

This chapter of the manual is divided into the following major sections:

- Title VI - Non-Discrimination in Programs and Activities
- Americans with Disabilities Act (ADA) / Section 504
- Equal Employment Opportunity (EEO)
- Disadvantaged Business Enterprise (DBE) - Non-Discrimination in Contracting Practices

## TITLE VI – NON-DISCRIMINATION IN PROGRAMS AND ACTIVITIES

**Important:** In accepting *any* amount of Federal funding, such as a Section 5310 grant, or by operating a Section 5310-funded vehicle, your organization is required to comply with Title VI of the Civil Rights Act of 1964 for *all* of your programs and activities. Receiving one dollar of Federal funds sets these requirements in motion.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, the Federal transit laws, 49 U.S.C. 5332(b), provide that "no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act."

Title VI is the overriding basis for many of the FTA civil rights requirements and this section addresses the need for recipients of Section 5310 to ensure that they plan and operate services in a non-discriminatory manner. Planned changes in services, facilities, and policy must not result in discrimination against any segment of the community. Service and facilities planning must take into consideration the potential impact on minority populations. Minority and non-minority communities should be served with relative equity. Service cuts should not result in a relatively higher loss of service for minority communities, while service expansions should serve minority communities as well as non-minority communities.

### Applicability

All entities that receive any amount or form of Federal financial assistance are subject to Title VI. This includes primary grant recipients and all subrecipients.

The Title VI requirements introduced in this manual apply to your transportation program; however, Title VI applies institution-wide, not only to the services or programs for which the Federal funding is received. This means that all operations of your organization must be administered in a nondiscriminatory manner, and compliance with the requirements introduced in this manual does not relieve your organization of the specific requirements that apply to other programs and services you provide.

It is also important to note that Title VI applies to "persons." Title VI protections are not limited to U.S. citizens.

Fixed route operators of public transportation have additional requirements beyond those described in this manual, and organizations that operate 50 or more fixed route vehicles in peak service in urbanized areas with populations 200,000 or more have yet more requirements. If a Section 5310 subrecipient falls into these categories, they are



advised to refer to FTA Circular 4702.1B, “Title VI Requirements and Guidelines for FTA Recipients,” and consult the MDOT MTA Office of Equal Opportunity Compliance Programs.

## **Basic Title VI Regulations**

Section 5310 subrecipients should familiarize themselves with the information in FTA Circular 4702.1B, “Title VI Requirements and Guidelines for FTA Recipients,” which provides the guidance and instructions needed to carry out the Title VI regulations and to integrate into their programs and activities considerations in the U.S. DOT’s Order on Environmental Justice (Order 5610.2 based on Executive Order 12898) and Policy Guidance Concerning Recipients Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087 based on Executive Order 13166).

As such, Title VI seeks to:

- ensure that the level and quality of transportation services provided by the organization is provided without regard to race, color, or national origin. (Note that other Federal laws and regulations also prohibit discrimination on the basis of religion, sex, age or disability, Title VI specifically addresses race, color, or national origin),
- identify and address any disproportionately high or adverse human health and environmental effects of programs including the social and economic effect of those programs and activities on minority and low-income populations,
- promote the full and fair participation of all affected populations in transportation decision-making,
- prevent the denial, reduction, or delay of benefits related to programs and activities that benefit minority or low-income populations, and
- ensure meaningful access to programs and activities by persons with limited English proficiency.

The MDOT MTA requirements mirror the Federal requirements.

All subrecipients need to take some actions in order to ensure compliance with Title VI. All systems need a written Title VI Policy and Program, although the level of detail, submission requirements, and reporting requirements are lower for demand response systems which Section 5310 providers typically operate.

## **Title VI Requirements for All Section 5310 Subrecipients – General Requirements and Guidelines**

To be compliant with Title VI, all subrecipients must have:

- **Certifications and Assurances** – All subrecipients must sign certifications and assurances as part of their grant application submission. By signing their certifications and assurances, the subrecipients agree to comply with the provisions of Title VI. In addition to reporting complaints and lawsuits in the grant application, subrecipients must inform MDOT MTA *immediately* when lawsuit/complaints are received.
- **Title VI Policy** – All subrecipients must develop and follow a written Title VI policy including:
  - **Investigation/Complaint/Lawsuits Procedures** – providing a written process for receiving, recording, responding to, and resolving Title VI investigations, complaints, and lawsuits. This process should include notification of MDOT MTA *immediately* when any investigation, complaint, or lawsuit is initiated.
  - **LEP Plan** – providing a written plan for affording access to meaningful activities and programs for persons with limited English proficiency based on the DOT LEP guidance (or copy of the agency’s alternative framework for providing access to activities and programs). Certain recipients that serve very few LEP persons may choose not to develop a written LEP plan; however, absence of a written LEP plan does not prevent the underlying obligation to ensure meaningful access by LEP persons to your programs or activities.
  - **Public Notification** – notifying the public of the Title VI rights and procedures they need to follow to file a complaint. This notice should be disseminated to the public through measures that can include, but cannot be limited to the agency’s website. Refer to Chapter IV of the FTA circular and Chapter 2 of this manual for additional information on the required contents of the notice and effective practices for dissemination to the public.
  - **Public Participation** – establishing and conducting public outreach and involvement activities and undertake steps to ensure that minority persons have meaningful access to these activities.
- **Reporting** – Report any Title VI complaints as part of the grant application certification and assurances and to MDOT MTA *immediately*.
- **First Time Applicants** – In addition to the assurances, entities receiving Federal transit funding for the first time must provide information regarding their Title VI compliance history if they have previously received funding from another Federal agency (refer to the FTA circular for a description of what needs to be provided).
- **Compliance Review** – In addition to the certifications and assurances submitted with the grant application and the reporting associated with the

grant applicant, subrecipients should expect MDOT MTA to review their Title VI policy during compliance monitoring visits.

- **Title VI Program Submissions** – FTA requires that all recipients and subrecipients document their compliance by submitting a Title VI plan to the MDOT MTA’s Office of Equal Opportunity Compliance Programs once every three years. To meet this requirement, the subrecipients must prepare and submit certain general information. The collection and reporting of this information constitutes their Title VI program. The Title VI plan submission must include the following:
  - A copy of the subrecipient’s **Title VI notice to the public** that indicates the subrecipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted.
  - A copy of the subrecipient’s **instructions to the public regarding how to file a Title VI discrimination complaint**, including a copy of the complaint form.
  - A list of any public transportation-related **Title VI investigations, complaints, or lawsuits** filed with the subrecipient since the time of the last triennial submission to MDOT MTA. This list should include only those that pertain to the transportation recipient submitting the report, not necessarily the larger agency or department of which the subrecipient is a part.
  - A **public participation plan** that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission.
  - A copy of the subrecipient’s **plan for providing language assistance to persons with limited English proficiency**, based on the U.S. DOT LEP Guidance.
  - Subrecipients that have transportation-related, non-elected planning boards, advisory councils or committees, or similar bodies, for which the membership is selected by the subrecipient, have an additional requirement. Such subrecipients must provide a **table depicting the racial breakdown of the membership of the non-elected board, council, or committee**, and a **description of efforts made to encourage the participation of minorities** in the group.
  - If the subrecipient constructs a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., the subrecipient is required to conduct a Title VI equity analysis with regard to the location of the facility during the planning stage of the facility, and must include a **copy**

**of the facility Title VI equity analysis** as part of their Title VI program submission to MDOT MTA. If in the future, a Section 5310 subrecipient with any active 5310 vehicles or open FTA grants plans to construct a facility, regardless of the funding source for the facility, they should contact MDOT MTA as early as possible in the planning stage for guidance on conducting the Title VI analysis for the facility location.

Attachment 3.A is a Title VI Plan template that subrecipients can use to meet their Title VI Plan obligations.

## **Federal Environmental Justice Requirements (FTA Construction Projects)**

For new FTA funded construction and major rehabilitation or renovation projects, an environmental justice analysis must be submitted. Subrecipients should integrate an environmental justice analysis into the National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required).

Subrecipients undertaking new construction and major rehabilitation or renovation projects with Federal money must work closely with their MDOT MTA 5310 Program Manager and Title VI Coordinator at the earliest possible stages and throughout this process to ensure that Environmental Justice requirements are met.

## **Federal Requirements Regarding Services to those with Limited English Proficiency (LEP)**

The Title VI requirements include public notice requirements as well as requirements for ensuring meaningful access to services for LEP persons through both public information and participation.

All subrecipients must have an LEP plan that includes an LEP assessment to identify whether there is a significant LEP population. The FTA considers a significant LEP population as one in which the proportion of persons in the grantee's service area who reported to the U.S. Census that they speak English less than "very well" exceeds the statewide proportions, and/or the grantee's outreach to the community organizations serving LEP persons in their service area determines that there exists a sizable LEP population residing in the service area.

Subrecipients should develop an implementation plan to address the identified needs of the LEP populations it serves. The plan should consist of:

- identifying the LEP individuals who need language assistance,
- providing language assistance measures,

- training staff,
- providing notice to LEP persons of service available,
- monitoring and updating the LEP plan.

The U.S. DOT guidance on LEP compliance recommends a four-factor analysis to determine the local community need for language assistance. The four factors are:

- number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the grant recipient;
- frequency with which LEP individuals come in contact with the program;
- nature and importance of the program, activity, or service provided by the recipient to people's lives; and
- resources available to the recipient and costs.

Appropriate language assistance measures will vary from community to community, but may include oral language services (spoken interpretation) and written translation of documents that are vital for accessing services (such as schedule brochures, “how to ride” guides, applications or referrals to paratransit services, passenger policies, notices about service changes and public hearings, emergency evacuation instructions, and facilities signage). A sample template LEP plan is included in the sample Title VI Program attached as Attachment 3.A.

For detailed guidance on complying with LEP requirements, consult the U.S. DOT LEP policy guidance:

<https://www.gpo.gov/fdsys/pkg/FR-2005-12-14/pdf/05-23972.pdf>.

The FTA Office of Civil Rights developed a handbook for implementing LEP responsibilities, which can be downloaded through:

[http://www.sddot.com/services/civil/docs/LEP\\_Handbook.pdf](http://www.sddot.com/services/civil/docs/LEP_Handbook.pdf).

## AMERICANS WITH DISABILITIES ACT (ADA)/ SECTION 504

The ADA prohibits discrimination against individuals with disabilities in the areas of employment, public services including transportation, public accommodations including services operated by private entities, and telecommunications. This Federal law sets forth specific requirements for transportation services, vehicles, and facilities. The regulations were codified by the U.S. DOT in:

- 49 CFR Part 37 –Transportation Services for Individuals with Disabilities
- 49 CFR Part 38 –Accessibility Specifications for Transportation Vehicles

The U.S. Architectural and Transportation Barriers Compliance Board (commonly known as the Access Board), develops and maintains the accessibility design criteria on which the U.S. DOT regulations are based, including ADA Accessibility Guidelines (ADAAG) for vehicles, buildings, facilities, and telecommunications.

Recipients of Federal funding are also subject to the requirements of Section 504, codified in 49 CFR Part 27--Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.

The fundamental requirements of these regulations that apply to subrecipients of Section 5310, JARC, and New Freedom are summarized in this section.

### Section 504 - Nondiscrimination Where Federal Funding is Received

Under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), an individual may not be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance solely by reason of his or her disability.

#### Written Policies

ADA/Section 504 policies need to be included in your organization's written policies, and staff need to be informed and trained to ensure the policies are followed. A template of required ADA policies, with recommended documentation practices, is provided as Attachment 3.B. Note that when MDOT MTA conducts compliance reviews of its subrecipients, the reviewer looks at the organization's written ADA policies for documentation of compliance with Federal and State requirements.

Below are required ADA policies relevant to Section 5310 subrecipients (i.e., those that pertain to private non-profit entities operating demand response service). If you operate fixed route service, there are additional requirements that are not addressed here.

- **Purchasing Accessible Vehicles** – All new vehicles except automobiles must be accessible unless the demand response system, when viewed in its entirety,

provides a level of service to individuals with disabilities equivalent to the level of service it provides to others. USDOT is working on updating the ADA accessibility standards for vehicles, but the current requirements for demand response vehicles include:

- **Entryways** – A lift or ramp is needed to enable someone who cannot climb stairs in getting from the sidewalk to the interior of the vehicle. Design specifications for lifts and ramps, including dimensions, load, slope, surface materials, handrails, raised edges for safety, and threshold clearances, must meet FTA standards. Doors, steps and thresholds also have requirements for slip resistance, color contrast, door height, and lighting.
- **Space for Maneuvering** – There must be adequate clearances at the boarding location and through the aisle for a person using a wheelchair to get to the securement locations. This includes positioning the farebox and other equipment so that they do not obstruct traffic in the vestibule. The regulations indicate design standards for interior clearances, support rails and poles.
- **Wheelchair Securement Areas** – There must be at least one securement area for vehicles less than 22 feet in length and at least two securement areas in larger vehicles. Securement locations must meet minimum dimensions, and in vehicles 22 feet or greater, at least one must be forward-facing. Securement areas may have fold-down seats to accommodate other passengers when a wheelchair or mobility aid is not occupying the area.
- **Securement Device** – Securement systems are required to secure wheelchairs in the securement areas. The regulations specify minimum design load based on the gross vehicle weight rating of the vehicle, and maximum movement under normal operating conditions.
- **Seat Belt and Shoulder Harness** – In addition to the securement system for the wheelchair, each securement area must have a seat belt and shoulder harness to secure the person. The seatbelt is to be used in addition to, never in lieu of, the securement device.
- **Priority Seating** – Vehicles must contain signage indicating that seats in the front of the vehicle, including at least one set of forward-facing seats, are priority seats for individuals with disabilities, and that other passengers should make these seats available to those who wish to use them. Such signage must also be posted at securement locations. This signage must meet character accessibility standards as designated in 49 CFR Part 38.
- **Equivalent Service Standards** - A system when viewed in its entirety is considered to provide equivalent service if the service available to individuals with disabilities is provided in the most integrated setting appropriate to the needs

of the individual and is equivalent to the service provided to other individuals with respect to the following service characteristics:

- Schedules/headways (if the system is fixed route)
  - Response time (if the system is demand responsive)
  - Fares
  - Geographic area of service
  - Hours and days of service
  - Restrictions or priorities based on trip purpose (if the system is demand responsive)
  - Availability of information
  - Reservations capability (if the system is demand responsive)
  - Constraints on capacity or service availability.
- **Maintenance of Accessibility Features in Good Working Order** - Accessibility equipment on your vehicles must be maintained in good working order. This includes performing preventive maintenance (PM) according to equipment manufacturer's specifications, training drivers in proper use, cycling lifts as part of every pre-trip inspection, removing vehicles from service when equipment is not working properly, and performing repairs on a timely basis.
  - **Accommodation of Wheelchairs** - A transportation provider must carry the wheelchair and occupant if the lift and vehicle can accommodate the wheelchair and occupant. The USDOT defines a wheelchair as "a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, and designed or modified for and used by individuals with mobility impairments, whether operated manually or powered." **Note: the word "wheelchair" as used in this 5310 Program Manual includes other mobility devices such as scooters.**
  - **Use of Lift** - Drivers must deploy the lift to allow customers using wheelchairs to board, as well as upon request by other customers who cannot board using the stairs (such as customers who use walkers and other mobility aids) due to their disability. This includes permitting standees on the lift. A transportation provider cannot require that an individual back his or her wheelchair onto the lift if the individual prefers to board it facing forward. Transportation providers are required to carry a wheelchair and its user, as long as the lift is designed to accommodate the size and weight of the wheelchair and its user, and there is space for the wheelchair on the vehicle.
  - **Wheelchair Securement** - Transportation providers may require that wheelchairs be secured on board the vehicle; however, customers may not be denied service because their wheelchair or scooter cannot be secured. On the other hand, if the transportation provider has a policy that wheelchairs be secured and customer



refuses to permit his or her chair be secured, the transportation provider may deny service under this circumstance.

- **Seatbelts** - Customers using wheelchairs cannot be required to wear seatbelts unless all other customers are subject to the same requirement. Under no circumstances should a vehicle-installed seatbelt be secured on a customer in a wheelchair or scooter that has not been properly secured to the vehicle, due to the risk of injury to the passenger.
- **Passenger Assistance** - As necessary or upon request, the driver (or other personnel of the transportation provider) must assist customers in using the lift or ramp to enter the vehicle and in using the securement equipment. All drivers and their supervisors must be trained in the proper use of the equipment as well as sensitivity towards individuals with disabilities.
- **Service Animals** - Service animals must be permitted to accompany individuals with disabilities on vehicles. Service animals are usually dogs, though other types of animals are sometimes trained to assist individuals with disabilities.
- **Portable Oxygen** - Individuals with disabilities must be permitted to travel with a respirator, concentrator, or portal oxygen supply.
- **Availability of Information in Accessible Formats** - Adequate information about transportation services must be made available to individuals with disabilities in formats that they are able to understand. This includes provision of audio and large print formats for persons with vision impairments, or electronic formats that can be made accessible by screen reader technology. The availability of braille is not specifically required, although it may be recommended if so requested by customers.
- **Making Reasonable Accommodations** - In addition to specific transportation requirements detailed in 49 CFR Part 37, the ADA has additional, more general requirements in the U.S. Department of Justice (DOJ) ADA regulation for private entities that offer places of public accommodation (including social service agencies and health care providers, but excluding religious organizations) under Title III of the ADA. Private entities are required to make reasonable modifications to policies, practices, and procedures when such modifications are necessary to avoid discrimination on the basis of disability, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. For example, a transportation service with a “no eating on the bus” policy must allow a modification of the policy in the case of an individual with diabetes who needs to eat on a particular schedule.

- **Complaint Procedures** - All Section 5310 subrecipients must have a procedure for responding to and tracking ADA-related complaints, including identification of a responsible party and written documentation of complaints and their resolution. Passengers should also be made aware of the complaint procedures for ADA-related complaints.
- **Employment** - Employers cannot discriminate against individuals with disabilities when hiring or in the workplace when an individual with a disability has been hired. Titles I and V of the ADA prohibit employment discrimination against qualified individuals with disabilities in the private sector, as well as in State and local governments. Employers with fifteen or more employees are required to provide reasonable accommodation for individuals with disabilities, unless it would cause undue hardship. Section 5310 subrecipient compliance with reasonable accommodation requirements is not under the purview of the MDOT MTA. However, information is introduced in the manual in the interest of being helpful.
  - Undue hardship means that an accommodation would be unduly costly, extensive, substantial or disruptive, or would fundamentally alter the nature or operation of the business.
  - A reasonable accommodation is any change in the work environment or in the way a job is performed that enables an individual with a disability to enjoy equal employment opportunities.
  - For assistance with accommodating individuals with disabilities as employees, the Job Accommodation Network, a service provided by the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), provides free consulting services for employers.  
Website: <https://www.dol.gov/odep/resources/jan.htm>

## Additional ADA Resources

- FTA's ADA web page - <https://www.transit.dot.gov/ada> - Includes links to the regulations and other resources.
- FTA Circular C 4710.1 - Americans with Disabilities Act (ADA): Guidance – Website: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/americans-disabilities-act-guidance-pdf>
- National Aging and Disability Transportation Center (NADTC) - Website: <http://www.nadtc.org/>

## EQUAL EMPLOYMENT OPPORTUNITY (EEO)

As employers, organizations that receive Section 5310 funding may not discriminate in any aspect of employment, including but not limited to, hiring and firing, testing, recruitment and promotion. Grantees of Federal transit funding must ensure that no person shall be subject to discrimination in employment under any project, program, or activity receiving Federal financial assistance from the Federal transit laws. Discrimination against any individual on the basis of race, color, religion, sex, national origin, disability, or age is prohibited. There are numerous steps that FTA subrecipients must take to assure authorities that EEO policies are actively practiced. It is the responsibility of every Section 5310 subrecipient to ensure that their agency is in compliance with the Federal and State EEO guidelines concerning discrimination in the workplace.

### EEO Requirements for All Section 5310 Subrecipients

All FTA subrecipients, regardless of size, are required to establish an EEO Program incorporating the following minimal elements:

- **Responsible Party** - Identify the office or position responsible for ensuring compliance with EEO requirements. Include this information in the grant application. The EEO officer should be an executive and must have direct access to the subrecipient's Chief Executive Officer.
- **Written Policy Statement** - Develop a formal EEO policy not to discriminate against any employee or applicant and take affirmative action to ensure that applicants are employed, and employees treated without regard to race, color, creed, national origin, sex, age, or disability.
- **Complaint Procedure** - Establish a procedure for handling EEO employment complaints. All employees and applicants have the right to file complaints alleging discrimination on the basis of race, color, creed, national origin, sex, age or disability, regardless of whether the transit system has a formal EEO Program (as required for larger organizations). Subrecipients should have procedures in place for receiving, processing and handling complaints. All EEO complaints must be reported to MDOT MTA.
- **Notice to Employees and Applicants** - Post in conspicuous places and make available to employees and applicants for employment notices setting forth their EEO policy. Employees should be made aware of the fact that the Federal Equal Employment Opportunity Commission (EEOC) has established a grievance process that can be accessed at the Federal, State, and local levels (<https://www.eeoc.gov/employees/charge.cfm>).

- **Certification and Assurances** - Certify in each grant application's certifications and assurances that EEO requirements are being met.
- **Complaint Reports** - Notify MDOT MTA *immediately* of any EEO complaints. Also report any EEO complaints (and the disposition of those complaints) as part of the grant application certification and assurances.
- **Status Report** - Indicate as part of the grant application whether or not the organization has 100 or more transportation-related employees, received more than \$1 million in FTA capital or operating assistance or more than \$250,000 in FTA planning assistance in the fiscal year preceding the application year, and, if yes, whether or not the organization has an FTA approved EEO program. The requirements are more formal for any grantee that exceeds these thresholds. A Section 5310 applicant that is not also a LOTS is highly unlikely to fall into this category, but should that be the case, the MDOT MTA Office of Local Transit Support will contact you when grant awards are made and work with you to ensure compliance with the requirements for a formal EEO Program.
- **Policy and Procedures for Making Reasonable Accommodations** for individuals with disabilities upon request (only required for subrecipients with fifteen or more employees).

A sample EEO Program is provided as Attachment 3.C.

## Federal Laws Related to Nondiscrimination in Employment

- The Civil Rights Act of 1964 applies to employment under Title VII - Non-Discrimination in Hiring Practices. Title VII prohibits employment discrimination based on race, color, religion, sex and national origin or retaliation. Employment discrimination is also covered by Title VI if Federal financial assistance is provided for employment purposes, or if employment discrimination results in discrimination against program beneficiaries.
- The Federal Transit Laws, 49 U.S.C. 5332(b), provide that "no person in the United States shall on the grounds of race, color, religion, national origin, sex, or age be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any project, program or activity funded in whole or in part through financial assistance under this Act."
- The ADA, as described in the previous section, prohibits discrimination against individuals with disabilities when hiring or in the workplace when an individual with a disability has been hired. Titles I and V of the ADA prohibit employment discrimination against qualified individuals with disabilities in the private sector, and State and local governments. Employers with fifteen or

more employees are required to provide reasonable accommodation for individuals with disabilities, unless it would cause undue hardship, as described earlier in this chapter.

## **DBE - NON-DISCRIMINATION IN CONTRACTING PRACTICES**

The US DOT's Disadvantaged Business Enterprise (DBE) Program seeks to ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs and to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts. The DBE regulations are contained in 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

Under this rule, a DBE is defined as "a for-profit small business concern" when:

- (1) At least 51% owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (2) The management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it."

All Section 5310 subrecipients must ensure that they do not discriminate against DBEs in the awarding and administration of FTA- and MDOT MTA-assisted contracts. However, the requirement for a DBE program only kicks in when a subrecipient receives more than \$250,000 of FTA funds in prime contracts (excluding vehicle purchases) in a Federal Fiscal Year.

Because MDOT MTA purchases vehicles for its Section 5310 subrecipients and funding for Section 5310 is limited, Section 5310 agencies are extremely unlikely to be subject to DBE Program requirements. Should this occur, however, the subrecipient will work with MDOT MTA to develop and implement a formal DBE program.

## SUMMARY

Under Chapter 3 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or notices:

- A triennial Title VI Program updated annually. A sample Title VI Program is provided as Attachment 3.A.
- An ADA Service Program (written policies and procedures) if you operate Section 5310 FTA funded transportation services (with 5310 capital-funded vehicles or otherwise). A sample ADA Service Program is provided as Attachment 3.B.
- An EEO Policy, conspicuously posted, as well as an EEO complaint procedure. A sample EEO Policy is provided as Attachment 3.C.

# Chapter 4 - Purchasing, Procurement & Contracting

***Important: All subrecipients must consult with their MDOT MTA 5310 Program Manager or Regional Planner for any FTA- and/or MDOT MTA-funded purchases exceeding \$1,000 for purchases funded by capital grants and \$3,500 for purchases funded by operating grants. MDOT MTA concurrence is needed for any grant-funded purchase exceeding these thresholds.***

## INTRODUCTION

Federal and State requirements related to purchasing, procurement, and third-party contracting are intended to ensure contracts that make use of Federal and State funds:

- are consistently managed following locally established procedures that ensure compliance with State and Federal procurement requirements,
- are not awarded to fraudulent, debarred, or technically unqualified vendors,
- are cost-efficient - price consistent with the current market,
- provide qualified vendors a fair opportunity to obtain contracted work through full and open competition (without local geographic preference),
- do not discriminate against businesses owned by persons of racial or ethnic minorities or women (i.e., comply with DBE requirements),
- make preference for materials manufactured in the United States (i.e., complying with Buy America requirements), as applicable, and
- include contract clauses that require contractors to comply with applicable Federal and State requirements.

As part of the grant application process, each applicant for Section 5310 funding certifies that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders or regulations and the requirements of FTA Circular 4220.1F, "Third Party Contracting Guidance."

Subrecipients also must certify that they will not discriminate on the basis of race, color, national origin, or sex in awarding contracts and sub-agreements supported by US DOT funds, and will comply with DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26. All subrecipients that receive planning, capital (excluding transit vehicles),

and/or operating assistance and will award prime contracts exceeding \$250,000 in FTA funds in a fiscal year are required by FTA to have a Disadvantaged Business Enterprise (DBE) program. Few Section 5310 subrecipients will meet or exceed this threshold. Should this occur, MDOT MTA will work with the subrecipient to develop and implement a formal DBE program.

It is important to emphasize that this chapter is not an all-inclusive reference on Federal and State procurement and contracting requirements. Federal requirements are extensive, and FTA has prepared detailed guidance on these requirements. Subrecipients are advised to review FTA Circular 4220.1 carefully. This circular is frequently updated. At the time of preparing this manual, the most recent version was 4220.1F, revised through March 2013. This circular can be found online at <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>. Appendix 4A provides a more expansive description of the procurement requirements for FTA subrecipients, particularly as they apply to larger purchases (valued over \$25,000).

## **PROCUREMENT RESPONSIBILITY**

All procurement activities are the responsibility of the subrecipients. However, the MDOT MTA conducts a centralized procurement for small buses funded by the Section 5310 program and subrecipients awarded this type of vehicle must participate in the State procurement of small buses rather than procuring FTA grant-funded vehicles locally.

Subrecipients must procure other equipment, including equipment that is installed on vehicles after delivery from the factory, such as mobile radios. Funding for such equipment must be applied for separately from the vehicle in the grant application, and the equipment must be procured by the subrecipient under a separate procurement process from the vehicle. Other equipment that the subrecipient must procure themselves includes computer hardware and software.

Service contracts and purchases that make use of Federal or State funds are also subject to procurement requirements. This includes administrative services (legal, accounting, insurance) as well as vehicle operations and maintenance.

As noted earlier, as part of the grant application process, each subrecipient is required to self-certify that its procurement system complies with Federal requirements for any FTA-assisted third-party contract the subrecipient undertakes and administers.



## MDOT MTA CONCURRENCE

Because of the scope and complexity of Federal and State procurement requirements (summarized in this chapter), all subrecipients are required to consult with the MDOT MTA Office of Local Transit Support for guidance before engaging in any procurement activities that make use of Federal and/or State funds.

**The MDOT MTA must concur in writing with subrecipient solicitation documents prior to initiation of the procurement process for all items purchased with capital and technical assistance funds, as well as for all items purchased through small purchase, sealed bids, competitive proposal, competitive negotiation, or noncompetitive negotiation.** This includes MDOT MTA written approval of bid specifications for vehicles and equipment.

The MDOT MTA must also concur in writing with the recommendation for award prior to the execution of a local contract or purchase order valued more than:

- \$1,000 if capital grant funds are involved, or
- \$3,500 if operating grant funds are involved.

## ETHICS / WRITTEN STANDARDS OF CONDUCT

Subrecipients must maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. These standards must prohibit conflict of interest in the selection, award, or administration of a contract supported with FTA assistance, the acceptance of gifts, gratuities, favors, or anything of monetary value from contractors or subcontractors, and provide for disciplinary action for violation of such standards. A sample of a code of ethics/conduct is provided as Attachment 4.A.

FTA takes very seriously the requirement to avoid conflicts of interest in conducting procurements and awarding FTA-funded contracts, and any form of fraud can be prosecuted as a criminal act.

## CONTRACT ADMINISTRATION SYSTEM

Subrecipients must maintain a contract administration system that ensures that:

- Subrecipients have written procurement and purchasing procedures that address each of the requirements described in this chapter and as listed in FTA Circular 4220.1F, pages III-2 and III-3.
- All procurements funded wholly or in part with MDOT MTA and FTA funds are done in accordance with State and Federal regulations,
- Contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders, and
- Subrecipients follow their procedures for all local procurements as long as they meet Federal and State requirements. If there is no State law on a particular aspect of procurement, then Federal contract law principles will apply.
  - Subrecipients that are part of local government organizations may use the procurement procedures of their jurisdiction as long as they conform to the minimum standards prescribed by the FTA and MDOT MTA, which are summarized in this chapter.
  - Subrecipients that are private organizations must develop written procurement procedures that meet Federal and State requirements as outlined in FTA Circular 4220.1F.

Attachment 4.B provides a sample Small Procurement Policy and Procedure Template and Guide you may use that will satisfy most Federal and State Procurement requirements.

## **AWARDS TO RESPONSIBLE CONTRACTORS**

Subrecipients may make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

The subrecipient must apply USDOT's debarment and suspension requirements to itself and each third-party contractor and their subcontractors. The subrecipient must seek concurrence from MDOT MTA before awarding any contract or procurement. MDOT MTA requires that the subrecipient check the Excluded Parties List System (EPLS) maintained by the GSA's System for Award Management (SAM) ([www.sam.gov](http://www.sam.gov)) before awarding a third party contract. A screen print of the EPLS search results must be placed in the procurement file. Any prospective contractor or subcontractor listed on the Maryland State government debarment and suspension list, which can be found online at <http://bpw.maryland.gov/Pages/debarments.aspx>, should also be regarded as non-responsible and ineligible for contract award.

## WRITTEN RECORD OF PROCUREMENT HISTORY

Subrecipients must maintain records detailing the history of each procurement. Such records are usually kept in the form of a file for three years from the procurement and, at a minimum, usually include:

For all procurements regardless of value:

- An independent cost estimate (ICE),
- Rationale for the method of procurement, solicitation document (e.g., the formal RFP, IFB, or other form of written solicitation),
- Documentation of outreach efforts (advertising of your procurement, to include posting on eMaryland Marketplace for all procurements exceeding \$15,000)
- Contractor responses/bids/proposals/quotes,
- Fair and equitable cost analysis of winning proposal (basis for contract price),
- Selection of contract type,
- Contractor selection or rejection,
- Screen shot of the EPLS search results from [www.sam.gov](http://www.sam.gov), and
- Copy of signed and executed final contract.

For each procurement valued more than \$25,000:

- Debarment certification
- DBE goal evaluation/analysis

## WRITTEN PROTEST PROCEDURES

Subrecipients must have written protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding protests to MDOT MTA and FTA. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the subrecipient before pursuing a protest with FTA. Copies of all documentation related to protests should be on file (e.g., disclosure to FTA and MDOT MTA, written protest decisions, etc.), and a sample Protest Procedure is provided as Attachment 4.C.

## Responsibility for Settlement of Contract Issues/Disputes

Subrecipients are responsible for settling any contract issue or dispute arising from their procurements, following their own locally adopted protest procedures. Subrecipients alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising

out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.

FTA/MDOT MTA will not mediate contract disputes. FTA/MDOT MTA will only address technical procedural issues related to compliance with Federal and State requirements (per FTA Circular 4220.1F and COMAR Title 21). Violations of the law will be referred to the local, State, or Federal authority having proper jurisdiction. If the procedures followed did not comply with Federal and State requirements, FTA/MDOT MTA may withhold Federal/State funds until a fully compliant procurement is conducted.

## INDEPENDENT COST ESTIMATE

A required first step in any procurement is to prepare an Independent Cost Estimate (ICE). An ICE is:

- necessary to determine the approximate cost of the project (which will determine what types of procurement methods may be used),
- an important step in developing a project's specifications, and
- needed to determine if the subrecipient has enough resources to conduct the project. MDOT MTA expects the subrecipient to prepare an ICE as a basis for each grant request.

ICE documentation must be maintained as part of the written record for each procurement. A sample template for documenting an ICE is provided as Attachment 4.D.

FTA's *Best Practices Procurement Manual* provides guidance on how to prepare and document an ICE, including a sample ICE form within Appendix B of that manual: <https://www.transit.dot.gov/funding/procurement/best-practices-procurement-manual>.

Information is also available through the National RTAP ProcurementPRO web application: <http://nationalrtap.org/Web-Apps/ProcurementPRO>.

## COST OR PRICE ANALYSIS FOR EVERY PROCUREMENT ACTION

Subrecipients must perform a cost or price analysis in connection with every procurement action, including contract modifications. Procurement actions specifically requiring a cost or price analysis include:

1. Independent Cost Estimate - An ICE must be prepared as an initial step in the process.
2. Evaluating Options - The value of options needs to be considered at the time the award is made.
3. Evaluating Offers - A fair and reasonable cost analysis must be conducted immediately prior to making the award.
4. Exercising Options - A fair and reasonable cost analysis must be conducted prior to exercising options.
5. Change Orders - A fair and reasonable cost analysis must be conducted prior to making any changes to the contract.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, subrecipients must make independent estimates (ICEs, referred to earlier) before receiving bids or proposals.

- A cost analysis must be performed when the offeror is required to submit the elements (such as labor hours, overhead, materials, etc.) of the estimated cost.
- A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.
- Subrecipients will negotiate profit as a separate element of the price for each contract. The cost plus a percentage of cost and percentage of construction cost methods of contracting is prohibited.

## **eMARYLAND MARKETPLACE**

Solicitations for all Section 5310-funded purchases exceeding \$15,000 must be published in the eMaryland Marketplace. MDOT MTA encourages subrecipients to list all solicitations on eMaryland Marketplace.

## **INTERGOVERNMENTAL PROCUREMENT AGREEMENTS**

Subrecipients are encouraged to utilize available State and local intergovernmental agreements for procurement or use of common goods and services. When obtaining goods or services in this manner, subrecipients must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the subrecipient's purchase document.

Subrecipients are also encouraged to jointly procure goods and services with other subrecipients. When obtaining goods or services in this manner, subrecipients must ensure all Federal requirements, required clauses, and certifications are properly followed and included in the resulting joint solicitation and contract documents.

## SMALL PROCUREMENTS

For projects up to \$25,000 (State limit), while a formal request for bids or proposals is not required, the subrecipient must solicit price or rate quotations from an adequate number of sources. The State requires at least two and preferably three quotes.

The State categorizes Small Procurements as follows, each with its own procurement guidelines:

- **Category I (known as Micro-purchases under Federal methods):** For purchases valued over \$1,000 (Federal threshold), oral, written or published solicitation may be used. A written purchase order or contract is required if written solicitation is used. The subrecipient is responsible for ensuring that the price is fair and reasonable, and is encouraged to distribute multiple purchases equitably among local qualified suppliers. The basis for the award should be the judgment of the subrecipient's procurement officer. Once a subrecipient has identified a preferred vendor, MDOT MTA concurrence is required prior to the issuance of a purchase order.
- **Category II:** For procurements more than \$3,500 but not more than \$25,000, oral, written, or published solicitation may be made. A written purchase order or contract is required for Category II small procurements.
- **Category III:** For procurements more than \$25,000 a written competitive solicitation must be made, and the solicitation must be posted on the eMaryland Marketplace.

All of these categories require an Independent Cost Estimate (ICE).

Selection of a vendor under Categories II and III should be based on the most favorable bid price or evaluated bid price, or most advantageous offer, as specified in the solicitation (COMAR 21.05.07.06).

As specified under COMAR 21.05.07.06, a written or published solicitation for a small procurement must contain, at a minimum:

1. description of the item requested;
2. time, date, place, and form of response requested;

3. basis for award; and
4. name and telephone number of the procurement officer to whom inquiries regarding the solicitation may be directed. <sup>1</sup>

A procurement may not be artificially divided in order to use the small procurement method instead of the other procurement methods. A checklist of required steps for small procurements and their record requirements (up to \$25,000) are provided as part of Attachment 4.B.

Projects exceeding the small purchase threshold (\$25,000) must be procured through one of the methods described in Appendix 4.A, with a checklist of steps required provided as well. Any subrecipient making a procurement greater than \$25,000 using Federal and/or State funding must contact MDOT MTA before initiating any procurement activity and must review Appendix 4.A.

## **THIRD-PARTY CONTRACT RESPONSIBILITIES REGARDING COMPLIANCE WITH FEDERAL AND STATE REQUIREMENTS**

Most Federal and State requirements regarding the use of FTA/MDOT MTA grant funds that apply to the primary subrecipient of the grant (your organization) also apply to your third-party contractors, vendors, and/or lessees. This includes such requirements as drug and alcohol testing for safety sensitive positions, possession of a valid Commercial Driver's License (CDL) by mechanics that test drive vehicles calling for CDLs, and meeting all ADA service requirements.

Federal and State requirements that pertain to those grants funding your contract with the third party should be clearly spelled out in the contract or your purchase order, and you are responsible for ensuring that your contractor complies with them. You must also monitor Federally funded procurements of the private contractor's procurement process to ensure Federal requirements are met. Subcontractors must sign a series of certifications and assurances and forward them to the subrecipient.

---

<sup>1</sup> COMAR 21.05.07.06 also indicates that the solicitation must contain provisions concerning mercury content under COMAR 21.11.07 (<http://www.dsd.state.md.us/comar/comarhtml/21/21.11.07.07.htm>): "Procurement solicitations for products that may contain mercury shall give a price preference not exceeding 5 percent to bids or proposals for products that are mercury free or, if the procurement solicitation states, to products containing the least amount of mercury." This provision may not be pertinent for all procurements, but is required in the State code. Products in which mercury is likely to be a concern in transportation agencies include florescent light bulbs, batteries, disinfectant soaps, and certain electronics.

Refer to Attachment 4.E for a list of Federally required contract provisions when they apply, and to Attachment 4.F for a summary template of each FTA-required clause. Third Party Procurement Clauses are found in the FTA Master Agreement updated each year by FTA. Always check the latest FTA Master Agreement and circulars to ensure you are including the current FTA-required provisions.

## SUMMARY

Under Chapter 4 of this manual, as a subrecipient of Federal and/or State funding, you will be required to provide the following information, forms or programs:

- Written Code of Ethics/Conduct. A sample Code of Ethics/Conduct Template is provided as Attachment 4.A.
- Written Procurement Policies and Procedures meeting FTA procurement requirements. A sample Procurement Policy and Procedures Template is provided as Attachment 4.B.
- Written Protest Procedure which can/should be part of your Procurement Program. A sample Protest Procedure Template is provided as Attachment 4.C.
- ICE Form with each procurement. A sample ICE Form Template is provided as Attachment 4.D.
- Documentation required for each procurement meeting FTA funding thresholds as detailed in the checklists found in Attachment 4.B.
- Appropriate FTA third-party Procurement Clauses and a checklist with each procurement meeting FTA funding limits. A checklist of current FTA-required provisions is provided as Attachment 4.E, with suggested clause language provided in Attachment 4.F.
- Procurement requirements described in this chapter are for COMAR Category I, II, and III small procurements (valued \$25,000 or less). Appendix 4.A covers the more extensive requirements for procurements valued more than \$25,000.



# Chapter 5 - Financial Management and Accounting

## INTRODUCTION

Section 5310 funding subrecipients must have the financial capacity to carry out the project funded by the FTA program. Financial capacity is an important criterion for qualifying for a grant under the Section 5310 program, and documentation is critical for reimbursement eligibility. The following requirements related to financial management and accounting apply to all Section 5310 subrecipients:

- **Local Match** – You must have sufficient local financial resources to match the Federal funds.
- **Eligible Expenses** – The expenses for which Section 5310 funds may be used are limited, and your organization must have accounting procedures with sufficient detail to track eligible expenditures (verified through an annual audit).
- **Reimbursement** – If your Section 5310 grant is for a vehicle, then MDOT MTA will procure your vehicle on your behalf. For all other Section 5310 grants, you will receive funds on a reimbursement basis following your submittal of a request for payment with required documentation to MDOT MTA. This means you must have adequate cash flow to cover your actual expenses in advance of grant funding reimbursement
- **Reporting/Program Measures** - Each subrecipient must report financial and operating data on the use of funds and equipment purchased with Section 5310 funds on a quarterly basis. You must have adequate procedures for maintaining required records as needed to prepare these reports and justify reimbursement requests.
- **Recordkeeping** - Each subrecipient must maintain financial and operating records related to the project grant for at least 3 years after project close-out or until MDOT MTA no longer has a lien on your vehicle's title.
- **Audit** – You must notify MDOT MTA of any audit findings related to Section 5310 funding until your project is closed out or MDOT MTA no longer has a lien on your vehicle's title. Additionally, if your organization meets the Federal threshold in annual grant award expenditures, this audit must meet Federal audit requirements.
- **Project Close-Out** - Closeout of grants should be initiated by MDOT MTA within 60 days after all funds are expended and/or all work activities for the project are completed.

- **Cost Allocation Plan** - If you intend to request Section 5310 funding for transportation program costs that are shared with other funding sources, then you must have an MDOT MTA-approved cost allocation plan for allocating costs among funding programs and services.

## LOCAL MATCH

Each grant received under the Section 5310 program (as well as under the prior JARC and New Freedom programs) requires a local financial contribution that matches the Federal funds.

### Minimum Amounts

The Federal share of eligible capital expenses may not exceed 80% of the net project costs, and the Federal share of eligible operating expenses may not exceed 50% of the net operating costs. This means that the local match for capital grants must be at least 20% of the net project costs and at least 50% of net operating costs. These percentages are summarized in the following table.

<b>Match Requirements</b>		
<i>Type of Funding</i>	<i>Federal Share (maximum)</i>	<i>Local Share (minimum)</i>
Capital	80%	20%
Operating	50%	50%

### Providing the Local Match

Local match availability is required to draw down appropriate Federal Section 5310 funds.

The local match for Section 5310 capital funding must be provided in cash.

For capital items purchased by MDOT MTA on behalf of the subrecipient (such as vehicles), the local share must be paid to MDOT MTA within 30 days after acceptance of the vehicle or other capital items eligible for funding on a reimbursement basis. An invoice will be sent to your agency with the appropriate amount specified.

For any Section 5310 capital items not purchased by MDOT MTA, or for any Section 5310 operating expenses incurred by your agency, your agency will be responsible for paying all costs (including paying your local share) up front, after which you will seek reimbursement from MDOT MTA for the Federal share.

## Sources of Matching Funds

All of the local share must come from sources other than Federal Department of Transportation (DOT) funds. Federal DOT program funds cannot be used as a source of local match for other FTA programs, even when used to contract for service. Some examples of sources for local match monies that may be used for any or all of the local share include local appropriations, other non-DOT Federal funds, dedicated tax revenues, private donations, revenue from human service contracts, and net income generated from advertising and concessions.

Non-DOT Federal sources which may provide local match funds include (but are not limited to):

- U.S. Department of Agriculture
  - Food and Nutrition Service
- U.S. Department of Education
  - Office of Elementary and Secondary Education
  - Office of Innovation and Improvement
  - Office of Special Education and Rehabilitative Services
- U.S. Department of the Interior
  - Bureau of Indian Affairs
- U.S. Department of Health and Human Services
  - Health Resources and Services Administration
  - Centers for Medicare and Medicaid Services
  - Administration on Aging
  - Substance Abuse and Mental Health Services
  - Administration for Children and Families
- U.S. Department of Housing and Urban Development
- U.S. Department of Labor
  - Employment Standards Administration
  - Veterans' Employment and Training Service
  - Employment and Training Administration
- U.S. Department of Veterans Affairs
  - Veterans Benefits Administration
  - Veterans Health Administration

Some examples are the Community Development Block Grant, and the Appalachian Regional Commission funds.

Income from contracts to provide human service transportation may be used to either reduce the net project cost (i.e., treated as operating revenue) or provide local match for operating assistance. In either case, the cost of providing the contract service is included in the total project cost.

## **ELIGIBLE EXPENSES**

Funds for the Section 5310 program must be used for capital or operating expenses to support the provision of transportation services to meet the special needs of elderly individuals and individuals with disabilities.

### **Eligible Capital Expenses**

In accordance with FTA guidance, at least 55 percent of Section 5310 funds must be utilized for public transportation capital projects that are planned, designed, and carried out to meet the specific needs of seniors and individuals with disabilities. Eligible capital expenses that meet this 55 percent requirement involve the following:

- 1) Rolling stock and related activities for Section 5310-funded vehicles
  - a. acquisition of expansion or replacement buses or vans, and related procurement, testing, inspection, and acceptance costs;
  - b. vehicle rehabilitation or overhaul;
  - c. preventative maintenance - FTA defines preventive maintenance as "all maintenance costs related to vehicles and non-vehicles. Specifically, it is defined as all the activities, supplies, materials, labor, services, and associated costs required to preserve or extend the functionality and serviceability of the asset in a cost effective manner, up to and including the current state of the art for maintaining such an asset." Common expenses that are eligible for capital funding include, but are not limited to, oil changes, tire rotation, tire replacement, transmission flushes, vandalism repairs, mechanic training, and associated labor costs. Fuel, accident repairs, insurable items, and warranty are not considered preventive maintenance and are therefore ineligible for capital funding under Section 5310. However, they may be eligible for 5310 funding as operating expenses;
  - d. radios and communication equipment; and

- e. vehicle wheelchair lifts, ramps, and securement devices.
- 2) Support equipment for Section 5310 Program
- a. computer hardware and software;
  - b. transit-related intelligent transportation systems (ITS); and
  - c. dispatch systems.
- 3) Support for mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management activities may include:
- a. promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, seniors, and low-income individuals;
  - b. support for short-term management activities to plan and implement coordinated services;
  - c. support of State and local coordination policy bodies and councils;
  - d. operation of transportation brokerages to coordinate providers, funding agencies, and passengers;
  - e. provision of coordination services, including employer-oriented transportation management organizations' and human service organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
  - f. development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
  - g. operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of geographic information systems (GIS) mapping, global positioning system technology, coordinated vehicle scheduling, dispatching and monitoring technologies, as well as technologies to track costs and billing in a coordinated system, and single smart customer payment systems. (Acquisition of technology is also eligible as a standalone capital expense).

## Other Eligible Capital and Operating Expenses

Up to 45% of a rural, small urbanized area, or large urbanized area's annual apportionment may be utilized for the following:

- 1) public transportation projects (capital only) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;
- 2) public transportation projects (capital and operating) that exceed the requirements of ADA;
- 3) public transportation projects (capital and operating) that improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA-complementary paratransit service; or
- 4) alternatives to public transportation (capital and operating) that assist seniors and individuals with disabilities with transportation.

## COST ALLOCATION PLAN

If a subrecipient receives operating assistance under the Section 5310 program, and the subrecipient's transportation program is funded by other grants or contracts in addition to Section 5310, the subrecipient must have an MDOT MTA-approved cost allocation plan for allocating operating costs among programs that fund the service. Examples of this could be meal delivery funded under Title IIIC of the Older Americans Act, client transportation services that are charged to another grant such as Head Start, or transportation under contract to another organization.

Additional details are provided in Appendix 5.B. Note that, while this appendix includes guidelines for allocating indirect (organizational overhead) costs among programs, subrecipients may not charge indirect expenses to Section 5310 grants.

Human service agencies should contact their 5310 Program Manager before developing their cost allocation plan.

## THE REIMBURSEMENT PROCESS

With the exception of vehicles purchased by MDOT MTA on behalf of Section 5310 subrecipients, all MDOT MTA-administered grants are issued to subrecipients on a reimbursement basis. Costs must be incurred by the subrecipient before payment is made

by the MDOT MTA. For financial reimbursement, the subrecipient must submit via U.S. Mail the following items to their MDOT MTA Section 5310 Program Manager no less than on a quarterly basis of each fiscal year (July 1 to June 30):

- Request for Payment forms (quarterly), following the instructions provided with the form. See Attachment 5.A for the Capital Assistance Request for Payment form and Attachment 5.B for the Operating Assistance Request for Payment form.
- Back-up operating data (budget) showing monthly activities for the quarter in which the subrecipient is seeking financial reimbursement. This information should accompany the Request for Payment. See Attachment 5.C for the Financial Report form (also referred to as the Operating Payment Request Backup Sheet). For a capital reimbursement, the subrecipient must submit a copy of all supporting documentation, including your original invoices, for purchases and a copy of the concurrence letter that was received from the subrecipient's MDOT MTA Section 5310 Program Manager.
- Program-specific reporting form (quarterly) which must correspond with the Request for Payment form and the back-up data. These forms are to be submitted in paper and electronic formats. Section 5310 reporting requirements and instructions for completing the quarterly reporting form are described in the next section. See Attachment 5.D for the Quarterly Report form.

Once MDOT MTA has received and approved the Request for Payment and accompanying statements, it generally takes 45 business days for the reimbursement check to be generated.

## REPORTING / PROGRAM MEASURES

### Section 5310 Reporting Requirements

In accordance with State and Federal requirements, each subrecipient must report financial and operating data on the use of funds and equipment purchased with Section 5310 funds on a quarterly basis.

The Section 5310 reporting form (Attachment 5.D) is provided to subrecipients as a Word file and must be submitted to MDOT MTA electronically, no more than 30 days after the end of each quarter as long as you have an active Section 5310-funded vehicle or grant.

- **If you have a Section 5310 vehicle awarded under a Capital grant**, you must submit quarterly reports until there is no longer an MDOT MTA security lien on the title of vehicle to the subrecipient (typically at least 5 years for small

buses and at least 4 years for smaller vehicles). Once an MDOT MTA/FTA-funded vehicle has reached the end of its useful life (see Chapter 6) and has been retitled to your agency, it no longer needs to be reported except in the context of questions addressed to your agency's client transportation program as a whole.

- **If you have a Section 5310 Operating grant or an ongoing Capital project** such as preventive maintenance or mobility management activities, you must submit quarterly reports, in support of your Quarterly Request for Payment, until all grant funds are expended and the grant is closed out (typically 1-2 years).

Subrecipients must maintain back-up documentation on file that supports the data reported in the quarterly report. Back-up documentation of any significant change to your transportation program that occurred during the year should be submitted as part of the annual grant application to the MDOT MTA. Examples of such changes include a reduction in service due to a reduction in operating funding or a vehicle becoming inoperable.

## **Instructions and Definitions for Completing the Section 5310 Quarterly Reporting Form**

Organization: List the name of the organization with which the Grant Agreement is executed.

Change of Name or Address: If your agency has relocated or changed names, or if the name of the project director has changed, indicate this in the space provided and contact the 5310 Program Manager of the change in address/

Reporting Period: Indicate calendar year and check the quarter for which the report is being completed.

### ***A. Client Transportation Service Description***

- Indicate the population characteristics of the people you transport by checking the appropriate boxes.
- Indicate the activities for which you provide transportation by checking all that apply on a regular basis.
- Indicate the total number of vehicles used in client transportation including backup vehicles. Also indicate the number of backup vehicles, and the number of vehicles equipped with wheelchair lifts or ramps.
- An important goal of the Section 5310 program is to ensure that vehicles funded under this program are used in a coordinated manner to the maximum extent feasible with other human service and public transit providers. Indicate



whether or not your agency participated in any coordination activities this quarter, and, if so, describe these activities. Examples include timesharing vehicles with other agencies, transporting each other's clients, and cooperative purchasing service (fuel, maintenance, etc.).

- Number of individuals with access to 5310 vehicles (could be entire clientele).

## ***B. Operating Data***

- Vehicle Maintenance Expenses: Provide quarterly vehicle maintenance costs for each Section 5310 vehicle and for your total transportation program, including the following expenses:
  - Mechanic Salaries - includes all wages paid to mechanics and mechanic aides on staff.
  - Fringe Benefits - includes the cost of fringe benefits for mechanics and mechanic aides on staff.
  - Maintenance Service Contracts - includes the cost of outside contracts for passenger vehicles maintenance.
  - Materials & Supplies - includes the cost of materials and supplies to maintain passenger vehicles and includes any materials and supplies not provided through a maintenance service contract.
  - Maintenance Facility Rental - includes costs incurred by renting a facility in which vehicles are maintained by staff mechanics and/or aides.
  - Equipment Rental - includes costs of renting maintenance equipment and includes any equipment rental costs not provided through a maintenance service contract.
  - Utilities - includes all utility costs for maintenance facilities. If maintenance facilities are not metered separately, all utility costs should be included in the Administration utilities costs.
  - Other - includes other maintenance expenses not categorized above
- Vehicle Hours in Service: vehicle hours operated with passengers during the quarter.
- Vehicle Miles in Service: vehicle miles operated with passengers during the quarter.
- One-way Passenger Trips: number of one-way passenger trips (rides) made during the quarter on each Section 5310-supported vehicle and in total. A passenger trip is defined as one person traveling from point "A" to point "B."

When the same person returns from "B" to "A", this counts as another passenger trip. Reported ridership must be based on actual boardings counted on driver trip sheets or some other MDOT MTA approved criteria. The subrecipient must document the method they use to count passenger trips.

- Use of Section 5310 Vehicles: Briefly indicate how each Section 5310 vehicle was used during the quarter, including trip purpose and geographic location.
- Odometer Reading: the end-of-quarter odometer reading for each Section 5310 vehicle.
- Number of Days Operated During Quarter: the number of days each Section 5310 vehicle was used during the quarter.
- Operating Expenses: This is the amount of expenses charged in the reporting period to the Section 5310 Operating grant. This amount must be backed up by the subrecipient submittal of the Operating Payment Request Backup Sheet (Attachment 5.C, also referred to as the 5310 Financial Report).

### *C. Insurance Certification*

- The quarterly reporting form also serves as a means of providing ongoing certification that minimum insurance coverages are provided. The authorized signature required with each report acknowledges that that Section 5310 insurance requirements continue to be met. For more information on these requirements, please see Chapter 6.

### *D. Major Safety/Security Incidents*

- Reportable Incidents\* - total number of safety or security incidents occurring on Section 5310 vehicles (either on-the-road, or on-board, or as part of maintenance or repairs to the vehicle) during the quarter that results in one or more of the following conditions: a fatality confirmed within 30 days of the incident, an injury requiring immediate medical attention away from the scene for one or more persons, property damage equal to or exceeding \$25,000, and/or an evacuation for life safety reasons.
- Fatalities\* - total number of deaths, including suicides but excluding deaths that are a result of illness or other natural causes, confirmed within 30 days of a reported incident.
- Injuries\* - Any physical damage or harm to persons as a result of an incident that requires immediate medical attention away from the scene.

\* Note that fatalities and other major incidents, as defined above, must be reported to MDOT MTA as soon as possible after the occurrence, in addition to the quarterly report.

## RECORDKEEPING

Each subrecipient must maintain financial and operating records related to the project grant, including all expenses charged to the project, maintenance and repair records for funded vehicles, revenues, in-kind services, cash contributions, and grant funds, and must provide these documents as requested by the MDOT MTA. In general, each subrecipient must maintain records that support each grant for a minimum of three years after close-out of the grant (or 3 years after MDOT MTA releases a security lien on the title of a vehicle purchased under S. 5310, JARC, or New Freedom). It is suggested that printed copies of electronic records should be maintained, as electronic files are easily lost or damaged. Financial and operating data (as required for quarterly reporting) must be collected that allows for completion of required reports and monitoring of potential compliance issues.

## AUDIT

For any fiscal year before your Section 5310 grant is closed out or the lien is released from your 5310-funded vehicles, your organization must report any audit findings related to Section 5310 funding to the MDOT MTA. MDOT MTA will follow up on any Section 5310-related audit findings with the subrecipient to ensure that these findings are resolved.

Organizations that expend \$750,000 or more in Federal grant awards in a single fiscal year must conduct their annual audit in accordance with the Federal single audit requirements under 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," Subpart F—Audit Requirements. Often referred to as the "Super Circular," 2 CFR Part 200 superseded former OMB Circulars A-122 and A-133 as of December 26, 2014. Subpart F—Audit Requirements can be found online here: <http://www.ecfr.gov/cgi-bin/text-idx?SID=baf3bba1aab1f70d0c92dcef95b283bf&mc=true&node=sp2.1.200.f&rgn=div6>

In determining whether your organization meets the \$750,000 threshold, Federal grant awards from any Federal program, not just FTA, count toward the threshold. Also, items purchased by the State for a subrecipient (e.g., Section 5310-funded vehicles) count towards the Federal threshold. However, FTA does not require a Federally compliant audit of a subrecipient when assistance is provided solely in the form of capital

equipment procured directly by the State (although your other Federal funding sources may require it).

Section 5310 subrecipients which meet the \$750,000 threshold, and receive Section 5310 funding for anything other than a State-purchased vehicle, must send a hard copy of their 2 CFR Part 200-compliant audit report to MDOT MTA, and notify MDOT MTA of any findings in the audit related to Section 5310 funding.

MDOT MTA during each grant application cycle will be requiring the subrecipient to identify their Federal sources and amounts of funding. If their total Federal funding spent exceeds \$750,000 in the most recent fiscal year for which an audit has been completed, the subrecipient must provide appropriate audit prior to receiving Section 5310 funding.

## **PROJECT CLOSE-OUT**

All grants should be closed out on a timely basis. MDOT MTA will initiate closeout of grants within 60 days after all funds are expended and/or all work activities for the project are completed. Remember, you must keep all records related to your operating grants for a minimum of three years after its closeout (this includes time sheets). Closing out your grants as early as possible minimizes your document storage needs.

### **Closeout Procedures for Operating Projects**

Operating grants are issued for a fixed length of time, typically, July 1 through June 30. Within 60 days of the end of the grant period (typically September 1), subrecipients must submit final payment requests and supporting documentation. Failure to meet this deadline may result in your payment request NOT being honored. Once a final payment request is received, the MDOT MTA will initiate grant closeout. The MDOT MTA will send a Final Operating Budget Statement (see Attachment 5.E). The subrecipient is responsible for reporting any disagreements with the information on this statement within 30 days of its issuance; otherwise, concurrence will be assumed and the grant will be closed with a grant close-out letter (see Attachment 5.F). Once a grant has been closed out, the MDOT MTA will not honor additional payment requests which charge costs against that grant or line item which has been closed out.

### **Closeout Procedures for Capital Projects**

After the capital item(s), for which the grant was awarded, are procured, and the subrecipient has been reimbursed for the capital expense, the MDOT MTA will initiate grant closeout. As part of their continuous and ongoing oversight of each subgrantee's progress in implementing grant funded projects, the MDOT MTA Program Manager will monitor when a specific grant project is nearing completion. If you are in the final phases

of a project and are requesting concurrence to make a final purchase which will complete the project, you should state this fact in your concurrence request.

Once your MDOT MTA Program Manager is made aware that you are in your final phases or have in fact already completed the project, they will initiate grant closeout. If concurrence has not been issued on final purchases, your concurrence letter will identify the purchase in question as the final purchase for which grant reimbursement payments will be honored by the MDOT MTA. If the MDOT MTA Program Manager becomes aware that a project is nearing completion after the final concurrence letter is issued, the Program Manager will develop a formal letter to the grantee indicating that the MDOT MTA will not honor further payment requests related to a specific grant and that the grant is closed.

Once you have been notified that a grant is closed, the MDOT MTA will not honor additional payment requests related to that specific project or purchase. Funds awarded to subrecipients for capital items are directly linked to the specific capital items for which the award was made, and may not be used to purchase additional items. Once the items for which the grant was awarded have been purchased, any remaining funds in the grant revert back to the MDOT MTA to be reallocated to other Section 5310 projects.

## SUMMARY

Under Chapter 5 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or audits:

- Payment Request Form (Attachment 5.A for Capital grants or 5.B for Operating grants) if you are seeking reimbursement.
- Financial Report (Attachment 5.C, also referred to as the Operating Payment Request Backup Sheet) if you are seeking operating reimbursement.
- Quarterly 5310 Report if you receive 5310 capital and/or operating funding. A sample 5310 Quarterly Report is provided as Attachment 5.D.
- Review of MDOT MTA's Operating (provided as Attachment 5.E) or Capital (provided as Attachment 5.F) closeout letters and budget statements.
- Annual financial audit, meeting Federal requirements if your organization meets the Federal grant expenditure threshold in a single fiscal year.

# Chapter 6 - Vehicles and Other Equipment

## INTRODUCTION

If your organization has any Section 5310-funded vehicles or other equipment, this chapter applies to you. This chapter describes the requirements related to vehicles and other equipment funded under the Section 5310 program.

FTA defines equipment as all tangible, nonexpendable, personal property that has a service life of more than one year and an acquisition cost that meets or exceeds a minimum unit cost. The MDOT MTA unit cost threshold for equipment subject to certain requirements is \$ 1,000.

Organizations with any Section 5310-funded vehicles and other equipment with a unit cost of \$1,000 or more are subject to the following requirements addressed in this chapter:

- Procurement – When purchasing grant-funded equipment, you must follow Federal and State requirements that apply to procurement, introduced briefly in this chapter and described in detail in Chapter 4.
- Use of Grant-Funded Equipment – Grant-funded equipment must be used as specified in the MDOT MTA-approved application.
- Inventory Records – An inventory that includes specific data must be maintained for any grant-funded equipment with a unit cost of \$1,000 or more as well as desktop computers.
- Maintenance – Grant-funded vehicles must be maintained in good working order through a State- and Federally-compliant preventive maintenance program.
- Minimum Vehicle Useful-Life Policy and Lien Release – Grant-funded vehicles are expected to be maintained and remain in service for a minimum number of years and miles, based on type of vehicle. MDOT MTA will retain a lien on the vehicle title until it meets minimum useful-life criteria.
- Disposition – Once a grant-funded vehicle is no longer usable, the subrecipient must follow certain procedures in order to dispose of it and must follow prescribed procedures on how disposal proceeds are used.
- Insurance Requirements – Minimum insurance levels must be maintained for grant-funded vehicles as well as agency umbrella liability coverage.
- Vehicle Accident Procedures and Reporting Requirements – In the event of an accident involving a grant-funded vehicle, specific procedures must be followed.

Finally, Federal & State requirements related to commercial vehicles are briefly introduced in this chapter. However, these requirements are beyond the purview of MDOT MTA and subrecipients should consult the appropriate enforcement agency for more information. Contact information can be found on page 6-18 and more information is provided in Chapter 8.

## **PROCUREMENT**

Vehicles (small buses) funded under the Section 5310 program are procured on a statewide basis by the MDOT MTA on behalf of the subrecipients. Procurement of other equipment (including minivans) is the responsibility of the local subrecipient, which must comply with Federal and State requirements. MDOT MTA/FTA procurement requirements are addressed in Chapter 4 of this manual.

Note that the MDOT MTA must also concur in writing with the recommendation for award prior to the execution of a local contract or purchase order valued at more than \$1,000 if capital grant funds are involved.

## **USE OF GRANT-FUNDED EQUIPMENT**

All vehicles and other equipment funded by the Section 5310 program must be used as specified in the approved application. Equipment must also be maintained in compliance with the manufacturer's specifications, as discussed further in this chapter.

If vehicles or other equipment are operated by any agent other than the subrecipient in the grant application, control and responsibility for the operation of the vehicles or other equipment must remain with the original recipient, unless transfer of the control and responsibility to another eligible organization has been authorized by the MDOT MTA.

### **Section 5310 Vehicles**

Vehicles funded by the Section 5310 program may be used only as follows:

- By the subrecipient as described in its approved application. Any changes from the original use stated in the application must be approved by the MDOT MTA prior to the subrecipient engaging in the new use.
- By subrecipients to coordinate transportation services for elderly individuals and individuals with disabilities with other agencies also serving these populations.

- By subrecipients to coordinate and assist in providing meal delivery services for homebound persons if it does not conflict with the provision of transportation services or result in a reduction of service to transportation passengers. Contact MDOT MTA for guidance and approval.
- By subrecipients to coordinate unused vehicle time with another agency, so that maximum vehicle utilization is achieved. The subrecipient must work with and receive the MDOT MTA's approval of any of these types of coordination activities prior to implementing them.
- Section 5310 funds may not be used to support services that compete with public transit or private-for-profit providers, to provide transportation for school children, or for any charter purposes.

Subrecipients with vehicles funded under the former JARC or New Freedom programs should consult Appendix 6.A for usage requirements related to these vehicles.

## INVENTORY RECORDS

Subrecipients are required to maintain the following records on all FTA/MDOT MTA-funded vehicles and other equipment with a unit cost of \$1,000 or more, as well as desktop computers.

- description of the equipment,
- serial number or other identification number,
- who holds the title,
- acquisition date,
- cost of the equipment,
- percentage of Federal/State participation in the cost of the equipment,
- MDOT MTA grant or project number under which it was procured,
- FTA grant agreement number under which it was procured, if applicable,
- location, use, and condition of the equipment,
- useful life, and
- disposition date, including date of disposal and sale price of the equipment.

MDOT MTA requires subrecipients with vehicles or equipment funded under Section 5310 to submit an asset inventory, listing all of their transportation program vehicles and equipment, with their biennial 5310 grant application which is maintained on file at the MDOT MTA. The subrecipient is also required to conduct a physical inventory of all



transportation program vehicles and equipment every year, and submit this to MDOT MTA for the duration of the service-life cycle of the FTA/MDOT MTA-funded vehicles and equipment even if they do not submit a 5310 grant application. A sample inventory sheet submitted as part of the application cycle is provided as Attachment 6.A.

In addition, vehicle inventory information must be provided as part of the reporting forms submitted to MDOT MTA on a quarterly basis, both manually and electronically.

Finally, all FTA/MDOT MTA-funded equipment must be tagged or otherwise identified as government property, and a control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of project property. Any loss, damage, or theft must be investigated and documented by the subrecipient.

## **MAINTENANCE**

All vehicles funded under the Section 5310, JARC and New Freedom programs must be maintained in full compliance with the manufacturer's recommendations. Subrecipients have full responsibility for such maintenance, as well as routine operating items such as tag renewal and emissions testing. The MDOT MTA will forward tag renewal and emissions testing notices to the recipient if received from the Motor Vehicle Administration.

An effective vehicle maintenance program involves two major components: preventive maintenance and repairs, both described within this section. All subrecipients must have a written maintenance plan that addresses these components. A sample maintenance plan is provided as Attachment 6.B.

### **Preventive Maintenance**

A preventive maintenance program provides thorough, periodic inspections at intervals that meet or exceed the manufacturer's minimum standards for each vehicle given the terrain and operating conditions experienced by your service. A mileage-based or time-based series of intervals for servicing that is strictly followed is the approach recommended by the MDOT MTA.

As an example, a typical preventive maintenance plan would require an oil change and basic safety inspections be performed every 3 months or 3,000 miles (whichever comes first), with more major services and inspections at longer intervals (semi-annually or 7,500 miles, annually or 15,000 miles, every two years, etc.). This ensures that fluids and parts are replaced before they break down and/or make the equipment unsafe to operate. Though it requires an up-front investment, preventive maintenance results in cost savings over the lifetime of a vehicle and maximizes its service-life.

### ***Driver Pre-trip and Post-trip Inspections***

Daily inspection of vehicles by drivers prior to putting vehicles into service is an important element of preventive maintenance. Inspections at the end of the service day (post-trip) are also recommended. Drivers should be trained in how to conduct these inspections and be required to complete inspection forms appropriate for their vehicle. If the vehicle is equipped with a wheelchair lift, the pre-trip inspection must include cycling of the lift. If a driver finds a significant deficiency during the inspection (such as a headlight or brake light out, or an inoperative wheelchair lift), the deficiency must be repaired before the vehicle is placed into service. A sample Driver Pre-and-Post Inspection Sheet is provided as Attachment 6.C.

### ***Maintenance of ADA and Other Equipment***

As mandated under the Americans with Disabilities Act, accessibility equipment on your vehicles must be maintained in good working order. This includes performing preventive maintenance according to equipment manufacturer's specifications, cycling lifts as part of every pre-trip inspection, and performing repairs on a timely basis.

Subrecipients must also maintain safety equipment and other FTA-funded equipment, including but not limited to mobile radios, automatic vehicle location technology, mobile data terminals, automatic passenger counters, and on-board cameras.

Maintenance of ADA accessibility features, safety equipment, and other equipment must be included in your written maintenance plan.

### ***Vehicle Cleaning***

All MDOT MTA-funded vehicles should be washed and their interiors cleaned on a regular basis. Vehicles should be swept out and trash disposed of at the end of each service day or driver shift.

### ***Maryland Preventive Maintenance Program Requirements***

Note that agencies that operate vehicles with a seating capacity of 16 passengers or more, including the driver, as well as publicly owned non-school buses designed to carry more than 10 people, must also comply with the Maryland Preventative Maintenance Program requirements. This program requires that commercial vehicles be systematically inspected, repaired, and maintained every 12 months or 25,000 miles, whichever occurs first. More information about this program, which is under the purview of the Maryland State Highway Administration rather than the MDOT MTA, can be found later in this chapter under "Federal and State Requirements Related to Commercial Vehicles." Please check with your MDOT MTA Program Manager about these Maryland maintenance requirements if you do or think you do operate vehicles of the capacities described above.

## Repairs

When repairs are needed, a repair order (or work order) should be used to record and track all repair work and be included in your recordkeeping for the vehicle. If you contract out repair work, it is critical that your contractor be responsive to your scheduling needs to ensure that you have enough vehicles to continue normal operations.

Warranty work should be handled by an authorized representative of the manufacturer. Remember, you must secure and utilize any warranties available to you when the need arises and you must record and document any warranty work performed on your vehicle(s).

## Recordkeeping

Subrecipients must maintain records that document preventive maintenance, repair work and warranty work that was performed on your vehicle(s) to meet minimum manufacturer's standards, including servicing of ADA equipment. MDOT MTA will review this documentation during site visits to verify compliance with Federal and State requirements.

Each subrecipient must establish a process (file system) for recording the maintenance/repair work performed on each vehicle(s), and it is also recommended that a method for analyzing overall maintenance performance and costs be established by the subrecipient. Such a process, often called a Management Information System (MIS), tracks maintenance information, including preventive maintenance services, repairs, costs by vehicle, fuel use and efficiency by vehicle, road calls, parts/labor cost breakouts, and per-mile cost.

## Outsourcing Maintenance and Repairs

The subrecipient may contract with a public body, a private non-profit, or a private for-profit organization for services such as maintenance, repair and use of garage facilities. If you contract for maintenance, you must monitor the contractor to ensure compliance with FTA/MDOT MTA requirements, record all work and assess costs to ensure cost effectiveness.

Outsourced maintenance must also comply with procurement and purchasing requirements as described in Chapter 4 of this manual and with the appropriate methodology followed to select the vendor(s) depending on the dollar amounts involved. If your organization contracts for maintenance of Section 5310-funded vehicles, or using Section 5310 operating funds, the maintenance contract must include required FTA clauses (described in Chapter 4 of this manual).

## MINIMUM VEHICLE USEFUL-LIFE POLICY AND LIEN RELEASE

Section 5310 vehicles will be jointly titled to the State and the subrecipient. The State will hold the vehicle title until the vehicle has reached its minimum useful-life standard after which the title will be signed over to the subrecipient. Subrecipients may not sell or otherwise dispose of a vehicle while MDOT MTA holds the lien.

### Minimum Useful-Life Standards

To ensure that vehicles are adequately maintained and remain in service for their normal service life, the MDOT MDOT MTA/OLTS has established minimum useful life standards for vehicles funded with state or federal funds. These standards apply to all vehicles purchased with Sections 5307, 5309/5339, 5310, 5311, 5316, 5317, and State funds, and to all vehicles that will be replaced with vehicles funded from these programs, regardless of the initial funding source.

Classification	Yrs.	Miles	LENGTH
Revenue Specialized Vehicles (Accessible Minivans, Vans, Accessible Taxicabs & Sedans)	4 years	100,000	n/a
Light Duty Bus	5 years	150,000	25' - 35'
Medium Duty Bus	7 years	200,000	25' - 35'
Heavy Duty Bus-Medium Size	10 years	350,000	30' - 35' '
Heavy Duty Bus-Large Size	12 years	500,000	Over 35'
Non-Revenue Specialized/ Fleet Support Vehicles (Pick-Up Trucks, Utility Vehicles & Sedans)	10 years	200,000	n/a

If there is ever a question about what a certain vehicle's classification might be, the Altoona Test used for that vehicle is always the substantiating documentation as to its classification.

Service-life begins on the date the vehicle was placed in service and continues until it is removed from service.

Vehicles are not replaced based solely on age or accumulated mileage. Subrecipients are required to submit additional information about the condition of the vehicle for all replacement requests, such as repair records or estimated repair costs.

Below is minimum information that is requested to submit for a replacement vehicle, using forms provided in the annual grant application.

- Fleet Vehicle Number,
- Present Mileage,
- Vehicle Identification Number and delivery date (if the vehicle to be replaced was purchased under a previous Section 5307, 5309/5339, 5310, 5311, 5316, 5317, or State grant),
- A description of the condition of the vehicle to be replaced, including the reasons for replacing the vehicle at this time; and
- An indication of how the vehicle will be disposed of (sell, salvage, or used as backup or other).

Any insurance proceeds received for a vehicle are deducted from MDOT MTA's state and federal portion of the eligible cost of a replacement vehicle. If this decision comes as a result of an accident with the vehicle, refer to the "Vehicle Accident Procedures and Reporting Requirements" section, which is found later in this chapter, for guidance.

### **Replacement Prior to Meeting Minimum Useful-Life Criteria**

The MDOT MTA OLTS considers the value prior to the end of normal useful-life to be based on straight line depreciation and that removal of a MDOT MTA OLTS funded vehicle before the end of its normal service life, for any reason, requires notification to the MDOT MTA OLTS. The subrecipient must describe the circumstances necessitating the replacement of the vehicle. The subrecipient would need to complete the information above, in addition to providing the following information:

- A list of any repairs that will be required to keep the vehicle in service, and an estimated cost of each repair,
- A description and cost of repairs made to the vehicle to date (attach the repair and preventive maintenance records, if available).

Upon notification, the MDOT MTA OLTS will determine whether it retains further interest in the vehicle and whether reimbursement of the federal/state share of its remaining value must take place. For FTA/MDOT MTA-funded vehicles, after the normal service life is met, the MDOT MTA OLTS no longer retains a financial interest in the vehicle.

## Releasing the Vehicle Lien and Title

If the subrecipient wants to dispose of a vehicle funded by FTA/MDOT MTA, the subrecipient must first request and obtain a release of the lien and title from the MDOT MTA.

When the vehicle reaches its minimum useful life, the subrecipient may request a lien release. After a vehicle has exceeded its minimum useful-life criteria by two years or more, the subrecipient *must* request a lien release.

If the vehicle has not yet reached its minimum useful life, the recipient should first call the MDOT MTA to discuss the circumstances before requesting a lien release.

The process for a lien release after a vehicle has attained its minimum useful life is as follows:

1. The subrecipient completes and submits to the MDOT MTA a letter of request to release the lien and notice of intent to sell the FTA-funded vehicle. A sample letter is provided as Attachment 6.D.
2. Upon receipt of the letter, the MDOT MTA will review the matter and determine whether it retains further interest in the vehicle and whether reimbursement of the Federal/State share of its remaining value must take place.
  - If the vehicle has no remaining service-life (as defined in the preceding section), the MDOT MTA will then provide written approval and transmit the title for the vehicle to the recipient. After the normal service life is met and the MDOT MTA releases the lien, the MDOT MTA no longer retains a financial interest in the vehicle. Once the subrecipient receives the lien release, it may either keep the vehicle and continue to use it, or it may dispose of the vehicle as described in the next section.
  - If the vehicle has remaining service-life (as defined in the preceding section), the MDOT MTA will review the circumstances on a case-by-case basis. Some vehicles may no longer be needed, or may have mechanical problems which might justify selling the vehicle prior to the expiration of its useful life. If the vehicle is useable, the MDOT MTA may reallocate it to another agency, and the recipient will be given appropriate guidance.

## DISPOSITION

The subrecipient will eventually face the decision to sell or otherwise dispose of a vehicle or other equipment funded by Section 5310 or the former JARC and New Freedom programs. If this decision comes as a result of an accident with the vehicle, refer to the

"Vehicle Accident Procedures and Reporting Requirements" section, which is found later in this chapter, for guidance.

Otherwise, subrecipients may dispose of vehicles and other equipment at the end of their useful life after notifying and receiving disposition instructions from the MDOT MTA. Note that MDOT MTA disposal approval is required even if the MDOT MTA has released the lien.

All subrecipients need a proper vehicle disposition policy that is approved by the MDOT MTA. The subrecipient must follow its locally adopted process to determine the fair market value of the equipment to be sold and concurrence must be received from the MDOT MTA.

As described in the preceding section, before disposing of a vehicle funded by FTA/MDOT MTA, the subrecipient must request and obtain a release of the lien and title from the MDOT MTA.

### **Local Policy for Vehicles and Equipment Disposition**

Subrecipients must have a written policy on property and equipment disposition. If the subrecipient is part of municipal government, local government disposition requirements must also be followed. Property disposition policies and procedures are generally considered a standard business practice for local governments. Counties are likely to have a county-wide process in place, and subrecipients that are part of county government are encouraged to use their local process. Non-profit organizations and private companies may need to develop a written policy on property and equipment disposition to meet MDOT MTA and FTA requirements. A sample disposition policy is provided as Attachment 6.E.

### **Proceeds from Sale of a Vehicle**

Proceeds from the sale of the vehicle must be added to the subrecipient's transportation budget, must be utilized for the transportation project, must not be considered local match in any future request for payment, and must be recorded. A sample Non-Fare Revenue Tracking Form (Vehicle/Equipment Proceeds Form) is provided as Attachment 6.F. The first \$100 of the proceeds can be retained to cover administrative expenses incurred.

- Equipment with a unit market value that exceeds \$5,000 requires reimbursement to FTA of the proportionate share of the fair market value or the net proceeds of the sale.
- Equipment with a unit market value of \$5,000 or less that has reached the end of its service life requires no FTA reimbursement. However, the MDOT MTA requires that upon completion of the sale, the subrecipient provide the sales

receipt information and indicate on what capital item(s) they intend to spend the auction proceeds. These funds may be applied to the subrecipient's transportation capital budget but may not be used as local match in any future grant or request for payment. If the original purchase price was \$1,000 or more, MDOT MTA may request that the subrecipient remit back to MDOT MTA a proportional amount of the sale based upon the original grant ratio, deducting from this amount if necessary to ensure that the subrecipient retains at least \$100 from the proceeds to cover handling expenses.

## INSURANCE REQUIREMENTS

The following minimum insurance is required for each vehicle purchased or rehabilitated with Section 5310, JARC or New Freedom funds throughout the useful life of each vehicle (as described elsewhere in this chapter) and until the vehicle is no longer titled to the MDOT MTA. The subrecipient must provide the MDOT MTA with proof of insurance at the specified limits of coverage prior to receipt of a new vehicle as well as during the application process, and certify that minimum insurance requirements continue to be met on a quarterly basis. Note that proof of insurance is usually provided on the industry ACORD (Association for Cooperative Operations Research and Development) Certification of Insurance Form.

- Comprehensive Business Automobile Liability that covers all automobiles defined as motor vehicles, whether owned, non-owned leased, or hired, to a minimum combined single limit for Bodily Injury and Property Damage of \$1,000,000.
- Each organization must have collision insurance for protection of FTA's 80% financial interest in each vehicle. This would include Comprehensive and Collision or Upset Coverage on the vehicle.
- There must be Uninsured Motorist coverage for limits of liability of \$30,000 per person, and \$60,000 per accident.
- The Maryland Department of Transportation **must** be named an additional insured party on each insurance policy for all vehicles procured under the Section 5310 program.

**Important Note:** If any of your vehicles are subject to Federal or State commercial vehicle requirements (introduced later in this chapter under "Federal and State Requirements Related to Commercial Vehicles"), they may be subject to higher insurance requirements (beyond the authority of MDOT MTA).



## VEHICLE ACCIDENT PROCEDURES & REPORTING REQUIREMENTS

In the event of an accident involving a vehicle funded under Section 5310, JARC or New Freedom, certain Federal and State requirements must be followed. These procedures apply to all accidents, regardless of their severity.

### Accident Reporting

- Call your MDOT MTA representative to report the accident as soon as possible at (410) 767-3790.
- File a "Vehicle Accident Report" with the MDOT MTA. This report form is included at the end of this chapter. This report includes the vehicle identification, date and location of the accident, a description of the accident, damages and injury, estimated repair costs, estimated number of days the vehicle will be out of service, a copy of the police report, and a report on the status of your insurance claim.

### Repairing the Vehicle

#### If the vehicle has remaining service-life:

- Vehicles that have remaining service-life (as defined earlier in this chapter) must be repaired if the subrecipient's insurance company determines that it is cost effective to repair the vehicle.

All vehicle repair costs are the responsibility of the subrecipient, including monies for repairs not covered by insurance. The subrecipient must secure at least three written repair estimates, and then report in writing to the MDOT MTA those estimates, the subrecipient's preference on which estimate to accept, and when the vehicle will be taken out of service for repair.

The subrecipient must receive MDOT MTA approval before proceeding with the repair. When the repairs are completed and the vehicle is back in service, the MDOT MTA is to be notified of the date when the vehicle was placed back in service. A copy of the paid, itemized bill is to be submitted to the MDOT MTA.

#### If the vehicle has no remaining service-life:

- Vehicles that have no remaining service-life, may be repaired, sold or otherwise disposed of as noted in the Disposition Section above.

The subrecipient must provide a written statement of its intentions, with documentation of the vehicle's "useful life" to the MDOT MTA. If the vehicle

title has not already been signed over to the subrecipient, the MDOT MTA will do so.

A sample Vehicle Accident Program and Form is provided as Attachment 8.D (see Chapter 8).

## Disposing of a “Total Loss” Vehicle

If the insurance company determines the accident vehicle to be a total loss, the following applies.

### If the vehicle has remaining service-life:

- Vehicles that have remaining service-life must be disposed of in accordance with Federal regulations. The subrecipient must notify the MDOT MTA of the insurance company's determination, the amount to be paid, and the intended disposition of the vehicle. MDOT MTA will review this information and release the vehicle title if appropriate.

When the insurance payout is accepted by the subrecipient for the totaled vehicle, the subrecipient must reinvest the funds in their transportation services and advise the MDOT MTA of how the funds will be reinvested in capital equipment.

If the totaled vehicle is not removed by the insurance company, the subrecipient must notify the MDOT MTA of what will be done with the vehicle. The vehicle may be kept for spare parts, sold or otherwise disposed of. If the vehicle is sold, any proceeds must be reinvested in the subrecipient's transportation capital program.

### If the vehicle has no remaining service-life:

- Vehicles that have no remaining service-life may be disposed of as noted in the Disposition Section above. However, the subrecipient must provide a written statement of its intentions, with documentation of the vehicle's “useful life” to the MDOT MTA. If the vehicle title has not already been signed over to the subrecipient, the MDOT MTA will do so.

## FEDERAL AND STATE REQUIREMENTS RELATED TO COMMERCIAL VEHICLES

**Important Note:** The following requirements are not administered or enforced by FTA or MDOT MTA, and are only briefly introduced in this manual. For further information,

subrecipients are advised to contact the appropriate Federal or State agency as indicated on page 6-18.

If your organization operates any of the following types of vehicles, that vehicle is considered a commercial motor vehicle under Federal and State law:

- designed or used to transport 16 or more passengers, including the driver,
- designed or used to transport 9-15 passengers (including the driver) for compensation, or
- has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 10,001 pounds or more, whichever is greater. **Note that most of the vehicles purchased by the MDOT MTA for subrecipients will meet this category. Please contact your 5310 Program Manager if you are unsure if a Section 5310 vehicle falls into this category.**

The full definition of commercial motor vehicle is found within 49 CFR part 390, § 390.5. The State of Maryland has adopted the US DOT definition by reference in COMAR 11.21.01.04.

Note that “for compensation” may vary depending upon how your transportation services are funded (since even indirect compensation for transportation services by or on behalf of a passenger may trigger applicability for some requirements). Examples of direct compensation could include transportation fees paid by passengers to go on a field trip, or Medicaid funding for Medicaid client trips.

If you are uncertain whether or not your agency’s passenger vehicles are commercial motor vehicles, you should contact the Maryland State Highway Administration (SHA) Motor Carrier Division (if you operate entirely within Maryland) or the Federal Motor Carrier Safety Administration (FMCSA) if you cross state lines. Contact information is provided on page 6-18.

**Note:** Qualifications for *drivers* of commercial vehicles are addressed in Chapter 8 of this manual.

See Attachment 8.A in Chapter 8 for a list of the FMCSA and Maryland Motor Carrier requirements that apply to organizations that operate commercial vehicles.

### **US DOT Number for Interstate Operations (i.e., Crossing State Lines)**

If you operate a commercial vehicle across state lines, this section applies to you.

Under USDOT/FMCSA regulations, motor carriers engaged in transporting goods or passengers “for compensation” across state lines are required to obtain a US DOT

Number (also referred to as Operating Authority) and are subject to certain vehicle inspection requirements. Grant money may be sufficient to qualify FTA subrecipients as “for compensation” carriers, whether or not farebox revenue is collected. Subrecipients should contact the FMCSA if they are unsure if their transportation services are considered “for compensation” for the purposes of complying with FMCSA requirements.

Any small portion of a route that takes place in another state qualifies a service as interstate, even if pick-up and drop-off points are in Maryland, although there are some metropolitan commercial zone exceptions.

There are also specific insurance and safety requirements for interstate carriers depending upon the size of vehicles operated, and there may be additional requirements based on which state lines are crossed. Therefore, interstate operators need to contact the regulatory agency in each state where service is provided.

### **Maryland DOT Number for Intrastate (i.e., within Maryland) Operation**

If you operate a commercial vehicle within Maryland, this section applies to you.

Under Maryland law, private organizations that operate passenger transportation services in Maryland must display either a USDOT Number (as introduced above) or a Maryland DOT motor carrier identification number also obtained from the SHA's Motor Carrier Division on commercial vehicles.

### **Public Service Commission (PSC) Permit or Operating Authority**

If you transport passengers within Maryland and charge for this service, this section may apply to you.

Under Code of Maryland Administrative Regulations (COMAR) Title 20: Public Service Commission, Subtitle 95: Transportation, intrastate operators of any motor vehicle transporting passengers for hire must secure a permit from the PSC, referred to as Operating Authority on the PSC application form. “For hire” is not defined in the COMAR, but it is possible that private nonprofit organizations may be subject to PSC permit requirements if they operate on a regular schedule and fares are charged, or if they operate as a charter/contract carrier. (Note that local public transportation systems established by local governing bodies were exempted from the PSC permit requirement through the passage of SB 402 in 2011, which amended Article - Public Utilities in the Annotated Code of Maryland.)

Organizations which are required to register with the PSC are also subject to minimum insurance requirements depending in vehicle size, as well as annual PSC inspections

For information about the PSC requirements, including whether or not your transportation services would be considered “for hire,” visit <http://www.psc.state.md.us/transportation/> or call the PSC Transportation Division at (410) 767-8000 or (800) 492-0474.

## Maryland Preventive Maintenance (PM) Program

If you operate a commercial vehicle in Maryland, this section may apply to you.

Under COMAR Title 11: Department of Transportation, Subtitle 22: Preventive Maintenance Program, certain commercial vehicles are subject to Maryland Preventive Maintenance (PM) Program. This program requires that commercial vehicles be systematically inspected, repaired, and maintained every 12 months or 25,000 miles, whichever occurs first. This requirement applies to:

- vehicles with a seating capacity for 16 or more passengers including the driver (as well as other types of commercial vehicles), and
- any bus designed and used to carry more than 10 people owned by the State of Maryland or any political subdivision, excluding those subject to school bus regulations.

The vehicle owner can perform the inspection, or may have someone else do the inspection. Meeting the requirements of the law is the responsibility of the vehicle owner (subrecipient).

The PM program includes documentation requirements, including carrying on the vehicle at all times a Maryland DOT-approved inspection form documenting the most recent inspection or certification that the vehicle is maintained under a preventive maintenance plan established by the Maryland DOT.

The laws and regulations covering the PM Program, as well as the required forms, can be downloaded through this web page:

[http://www.mdot.maryland.gov/newMDOT/Motor\\_Carrier/PM\\_Program.html](http://www.mdot.maryland.gov/newMDOT/Motor_Carrier/PM_Program.html)

The PM inspection form for passenger vehicles can be downloaded here:

<http://www.mdot.maryland.gov/Office%20of%20Maryland%20Motor%20Carrier%20Program/Documents/Passenger%20Bus%20Preventive%20Maintenance%20Report.pdf>

The PM Maintenance Standards for Multipurpose Passenger Vehicles and Passenger Buses (COMAR 11.22.03) can be found here:

[http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/11\\_Chapters.aspx](http://www.dsd.state.md.us/COMAR/subtitle_chapters/11_Chapters.aspx)

The laws and regulations covering the PM Program are also found in the PM Handbook, which can be purchased from the Maryland Division of State Documents. To order a PM Handbook, call the Maryland Division of State Documents at 410-260-3876 or 1-800-633-9657. There is a charge for the PM Handbook. Order form: <http://www.dsd.state.md.us/PDF/InfoSheet.pdf>

For more information about Maryland PM Program requirements, contact the SHA Motor Carrier Division.

### **Contacts for More Information**

Maryland State Highway Administration (SHA) Motor Carrier Division  
1-800-543-4564  
410-582-5734  
[http://www.mdot.maryland.gov/newMDOT/Motor\\_Carrier/index.html](http://www.mdot.maryland.gov/newMDOT/Motor_Carrier/index.html)

Federal Motor Carrier Safety Administration (FMCSA)  
1-800-832-5660  
410-962-2889  
<http://www.fmcsa.dot.gov/>

Maryland Public Service Commission (PSC), Transportation Division  
1-800-492-0474  
410-767-8000  
<http://www.psc.state.md.us/transportation/>

See Attachment 8.A in Chapter 8 of this manual for more information and additional resources on FMCSA and Maryland Motor Carrier requirements that pertain to organizations that operate commercial passenger vehicles.

## SUMMARY

Under Chapter 6 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or programs:

- Annual Equipment/Vehicle Inventory if you receive any 5310 capital funds for equipment and/or vehicle(s). A sample Equipment/Vehicle Inventory is provided as Attachment 6.A.
- Preventative Maintenance (PM) Program if you receive 5310 capital funding for vehicle(s). A sample PM Program is provided as Attachment 6.B.
- Driver Pre-and-Post Trip Inspection Form if you receive 5310 capital funding for vehicle(s). A sample Pre-and-Post trip Inspection Form is provided as Attachment 6.C.
- Letter Requesting Lien Release/Notice of Intent to Sell an FTA-funded vehicle if you wish to dispose of a 5310 vehicle(s) you have received. A sample letter is provided as Attachment 6.D.
- Vehicle or Equipment Asset Disposal Policy if you have any 5310 funded equipment and/or vehicle(s). A sample Disposal Policy is provided as Attachment 6.E.
- Vehicle/Equipment Proceeds Form to track revenue received from the sale of 5310 funded vehicles and/or equipment. A sample Vehicle/Equipment Proceeds Form (Non-Fare Revenue Quarterly Reporting Form) is provided as Attachment 6.F.
- Vehicle Accident Program if you receive any 5310 vehicle(s). A sample Vehicle Accident Program and Accident/Incident Report Form is provided as Attachment 8.D (see Chapter 8).

# Chapter 7 - Transportation Service Operations

## INTRODUCTION

If you have a Section 5310 vehicle, or receive Section 5310 funding to operate or maintain vehicles, this chapter applies to you. This chapter presents the following Federal and State requirements related to operating transportation services that are funded by the Section 5310 program:

- **Coordinated Operations** - Your Section 5310-funded project must be derived from a locally developed, coordinated public transit-human services transportation plan, and must coordinate to the maximum extent feasible with transportation services assisted by other Federal sources.
- **Charter Service Restrictions** - You are prohibited from using FTA-funded vehicles and facilities to provide charter services, and must contact MDOT MTA before engaging in any service revisions so MDOT MTA can determine if the revised services meet the charter definitions.
- **School Bus Restrictions** - You are prohibited from using FTA-funded vehicles and facilities to provide school bus service.
- **Monitoring Purchased Transportation Contracts** - If you contract for service operations in lieu of in-house operations, you are responsible for ensuring that the contractor complies with all Federal and State requirements related to the grant. As a reminder, the contract has to be procured in a Federally compliant manner (see Chapter 4 for procurement requirements).
- **Fares** - If you plan or do charge a fee or fare for use of your transportation services, you are responsible for properly notifying your client base of the fares, applying the fares in an equitable manner and securely collecting and accounting for the fares collected.

Note that operating requirements related to non-discrimination (including compliance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act) are covered in Chapter 3 of this manual.



## COORDINATED OPERATIONS

### FTA Requirements Related to Coordinating Services

As described in Chapter 2 of this manual, projects funded under the Section 5310 program (as well as the prior JARC and New Freedom programs) must be derived from a “locally developed, coordinated public transit-human services transportation plan.”

Coordination is required at the planning level, but should not stop with the completion of the planning process. For the Section 5310 program, FTA requires that “private for-profit transportation providers are provided an opportunity to participate to the maximum extent feasible, and that the program provides for maximum feasible coordination of transportation services assisted under Section 5310 with transportation services assisted by other Federal sources.” Subrecipients meet this requirement when they submit their 5310 grant applications.

Coordination is therefore strongly encouraged at the operational level in order to use limited resources efficiently and effectively. Coordinated planning provides a foundation for coordinating service and is explained by the subrecipient as part of their 5310 application.

Among the criteria for evaluating applications for Section 5310 funding, 40% of the total score an application can receive is allocated to Coordination and Cooperation.

Appendix 7.A provides more information on transportation coordination.

## CHARTER SERVICE RESTRICTIONS

The use of FTA-funded vehicles and facilities to provide charter services is prohibited except under specific circumstances defined in FTA’s Charter Service rule, 49 CFR Part 604 <http://edocket.access.gpo.gov/2008/pdf/08-86.pdf>. The purpose of the FTA Charter Service rule is to protect private bus operators from unfair competition from transportation operators who have access to Federal and State funds for purchasing buses and to Federal funds for their operation.

All applicants for FTA funding sign a Charter Service Agreement as part of the Certifications and Assurances in the grant application to MDOT MTA. The Certifications and Assurances become part of your Grant Agreement. Under the Charter Service Agreement, the applicant agrees that the applicant (as well as its subrecipients or third party contractors who use FTA-funded vehicles) will not provide charter services using equipment or facilities acquired with Federal transit assistance except in compliance with FTA charter regulations.

## What is Charter Service?

Charter service is defined as transportation provided by the subrecipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The third party pays for the use of the vehicle, and it collects any fares from the passengers. Charter service is not part of a subrecipient's regularly scheduled services, or it is offered for a limited time period. The third party determines the origin and destination of the charter trip as well as the schedule.

Transportation provided by the subrecipient to the public for events or functions that occur on an irregular basis or for a limited duration is also considered a charter when a premium fare is charged that is greater than the usual and customary fixed-route fare, and/or the service is paid for in whole or in part by a third party.

Charter service does not include demand responsive service to the individuals you normally serve.

Section 5310 capital or operating funding may not be used in the provision of charter services. Should a 5310 subrecipient intend to engage in any change in its services while receiving FTA/MDOT MTA funding or operating an FTA/MDOT MTA-funded vehicle, it must contact MDOT MTA before engaging in its revised services so MDOT MTA can determine if the revised services meet the charter definitions.

Appendix 7.B provides more information about FTA charter service regulations.

## SCHOOL BUS RESTRICTIONS

The use of FTA-funded vehicles and facilities to provide school transportation is prohibited by FTA's School Bus Operations regulations, 49 CFR Part 605 ([http://www.fta.dot.gov/legislation\\_law/12923\\_4440.html](http://www.fta.dot.gov/legislation_law/12923_4440.html)), with certain exceptions. The purpose of the FTA School Bus Operations regulations are to protect private school bus operators from unfair competition from transit operators who have access to Federal and State funds for purchasing buses, and to Federal funds for their operation.

All applicants for FTA funding sign a School Transportation Agreement as part of the Certifications and Assurances in the grant application to MDOT MTA. The Certifications and Assurances become part of your Grant Agreement. Under the School Transportation Agreement, the applicant agrees that the applicant (as well as its subrecipients or third-party contractors who use FTA-funded vehicles) will not provide school transportation services using equipment or facilities acquired with Federal transit assistance.

## What does FTA Consider School Bus Service?

School bus operations are defined in the FTA regulations as transportation by bus exclusively for school students, personnel and equipment in school bus type vehicles.

The prohibition against school bus service applies to both transportation for home-to-school and transportation for school-sponsored activities or trips.

The FTA considers Head Start to be a social service program rather than a school program, and as such the prohibition against providing school bus service does not apply to transporting children who are participating in Head Start programs.

Section 5310 subrecipients may not use 5310 program funds or equipment to engage in school bus service of any kind. Call your MDOT MTA representative if you have any questions or refer to Appendix 7.C. In any case, you may not transport children to school services or functions without prior written MDOT MTA approval.

## MONITORING PURCHASED TRANSPORTATION CONTRACTS FOR COMPLIANCE AND SERVICE QUALITY

Subrecipients who contract for service operations in lieu of in-house operations are responsible for ensuring that the contractor complies with all Federal and State requirements related to the grant. Further, the contractor should be monitored to ensure that an acceptable quality of service is provided.

### Compliance Monitoring

Chapter 4 of this manual describes the clauses that must be included in third-party contracts using FTA funds. The subrecipient's responsibility does not stop at the inclusion of the clauses in the signed contract. You must take steps to monitor that they are doing what they agreed to do in the contract, including:

- providing services in a nondiscriminatory manner (as described in Chapter 3 of this manual).
- using your organization's vehicles (if part of the contract) only as allowed in the contract (e.g., not using FTA-funded equipment to operate charter or school bus service as described in Chapter 7 of this manual).
- maintaining your organization's vehicles (if part of the contract) to meet minimum preventive maintenance and safety standards (described in Chapter 6 of this manual).

- testing their safety-sensitive employees for drug use and alcohol misuse as would apply to your organization (as described in Chapter 8 of this manual).

## Quality Control

As discussed in Chapter 4, your contract should include quality control safeguards to ensure satisfactory performance of the contractor, with penalties if performance standards are not met. Setting minimum requirements for driver training and preventive maintenance is essential. Performance from a reliability standard should also be addressed. For example, incidents where the contractor exceeds an allowed window of lateness (such as more than 15 minutes late for a pickup) or where a scheduled trip is not delivered should result in a fee being deducted from the contractor's invoice.

For service operations contracts, it is important to establish customer complaint reporting and resolutions procedures. For example, you may want customers to direct their complaints initially to the contractor, and if they are not resolved to the customer's satisfaction by the contractor, the customer should then contact your agency. On the other hand, you may want customers to contact you directly so that you have a better indication of the kinds of problems your customers are experiencing. However, this approach is likely to involve more staff time in your agency.

If the contractor collects fares, you will need to require adequate cash handling procedures and documentation to ensure that all fares collected are credited to your program.

As a recommended practice, your organization may wish to conduct spot checks on your vehicles on a periodic, unannounced basis. Note that MDOT MTA also conducts spot checks at any time to ensure that FTA/MDOT MTA-funded vehicles are well-maintained and used for their intended purpose.

## **SUMMARY**

Under Chapter 7 of this manual, as a subrecipient of Section 5310 funding, you will be required to provide the following information, forms or programs:

- A locally developed coordinated human services transportation plan. This plan will be submitted with your grant application.
- A certification that the subrecipient will not engage in charter services. This certification is provided as part of the grant application/agreement process.
- A certification that the subrecipient will not engage in school transportation services. This certification is provided as part of the grant application/agreement process.